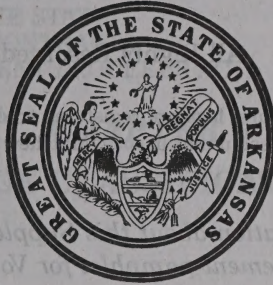


# ARKANSAS CODE OF 1987 ANNOTATED



## 2021 SUPPLEMENT VOLUME 19B

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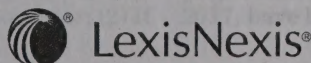
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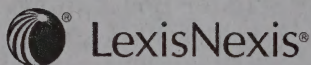
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# TITLE 19

## PUBLIC FINANCE

(CHAPTERS 1-5 IN VOLUME 19A)

### CHAPTER.

6. REVENUE CLASSIFICATION LAW.
7. FEDERAL FUNDS.
8. DEPOSITORIES FOR PUBLIC FUNDS.
10. CLAIMS AGAINST THE STATE.
11. PURCHASING AND CONTRACTS.
12. TOBACCO SETTLEMENT PROCEEDS ACT.

## CHAPTER 6

### REVENUE CLASSIFICATION LAW

#### SUBCHAPTER.

2. GENERAL REVENUES.
3. SPECIAL REVENUES.
4. SPECIAL REVENUE FUNDS.
8. SPECIAL REVENUE FUNDS CONTINUED.

### SUBCHAPTER 2 — GENERAL REVENUES

#### SECTION.

19-6-201. General revenues enumerated.

**Effective Dates.** Acts 2017, No. 508, § 13(a): Oct. 1, 2017. Effective date clause provided: "Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, and 12 of this act become effective on October 1, 2017."

Acts 2017, No. 977, § 5: Apr. 7, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the activities funded by general revenue are necessary for the preservation of the public peace, health, and safety; that increased general revenue funding is essential to the performance of these activities; and that this act is immediately necessary because without that increased funding, these activities may be compromised. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If

the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2017, No. 1051, § 8: July 1, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law in 1973 that have changed or created various revenues collected by the state, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees, and other revenues levied and collected for the support of and use by state government as they currently exist and from which appropriations that become effective July 1, 2017, have been made by the Ninety-First



General Assembly. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2017."

Acts 2017, No. 1119, § 4: Nov. 13, 2017.

Acts 2019, No. 705, § 5: Apr. 4, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the activities funded by general revenue are necessary for the preservation of the public peace, health, and safety; that increased general revenue funding is essential to the performance of these activities; and that this act is immediately necessary because without that increased funding, these activities may be compromised. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may

veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2021, No. 437, § 5: Mar. 24, 2021. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the activities funded by general revenue are necessary for the preservation of the public peace, health, and safety; that increased general revenue funding is essential to the performance of these activities; and that this act is immediately necessary because without that increased funding, these activities may be compromised. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

## 19-6-201. General revenues enumerated.

The general revenues of the state, as provided by law, shall consist of the following, as described by their commonly known titles:

(1) Sales taxes, as enacted by Acts 1941, No. 386, known as the "Arkansas Gross Receipts Act of 1941", and all laws supplemental or amendatory thereto, § 26-52-101 et seq.;

(2) Use taxes as enacted by Acts 1949, No. 487, known as the "Arkansas Compensating Tax Act of 1949", Acts 1971, No. 222, and all laws supplemental or amendatory thereto, § 26-53-101 et seq.;

(3) Corporation franchise taxes, as enacted by Acts 1979, No. 889, known as the "Arkansas Corporate Franchise Tax Act of 1979", and all laws amendatory thereto, § 26-54-101 et seq.;

(4) Corporation income taxes, as enacted by Acts 1929, No. 118, known as the "Income Tax Act of 1929", Acts 1941, No. 129, and all laws amendatory thereto, § 26-51-101 et seq., with the exception of those additional corporate income taxes set aside as special revenue by § 26-51-205(c)(2);

(5) Individual income taxes, as enacted by Acts 1929, No. 118, known as the "Income Tax Act of 1929", and all laws amendatory thereto, § 26-51-101 et seq.;

(6) Cigarette taxes and permits and other tobacco products taxes and permits, as enacted by Acts 1977, No. 546, known as the "Arkansas Tobacco Products Tax Act of 1977", and all laws amendatory thereto, § 26-57-201 et seq.;



(7) Escheat of unclaimed property, as enacted by Acts 1999, No. 850, known as the "Unclaimed Property Act", and all laws amendatory thereto, § 18-28-201 et seq.;

(8) [Repealed.]

(9) Seventy-five percent (75%) of all severance taxes, with the exception of the taxes paid to sever timber and timber products, the severance tax collected on natural gas, and those portions of severance taxes designated as special revenues in § 19-6-301, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, §§ 26-58-101 — 26-58-103, 26-58-106 — 26-58-111, 26-58-114 — 26-58-116, 26-58-118 — 26-58-120, 26-58-123, and 26-58-124;

(10) Sand, gravel, oil, coal, and other mineral royalties, as enacted by Acts 1975, No. 524, and all laws amendatory thereto, §§ 22-5-801 — 22-5-813;

(11) Oil and gas leases, as enacted by Acts 1975, No. 524, and all laws amendatory thereto, §§ 22-5-801 — 22-5-813;

(12) Petroleum trade practices civil penalties, as enacted by Acts 1993, No. 380;

(13) Estate taxes, as enacted by Acts 1941, No. 136, known as the "Estate Tax Law of Arkansas", and all laws amendatory thereto, §§ 26-59-101 — 26-59-107, 26-59-109 — 26-59-114, 26-59-116 — 26-59-119, 26-59-121, and 26-59-122;

(14) Those portions of real estate transfer taxes, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-101 — 26-60-103 and 26-60-105 — 26-60-112;

(15) State Insurance Department Trust Fund moneys in excess of an amount equal to one (1) fiscal year budget for the State Insurance Department, § 23-61-710(c);

(16) Large truck speeding fines, § 27-50-311;

(17) Employment agency licenses, as enacted by Acts 1975, No. 493, known as the "Arkansas Private Employment Agency Act of 1975", and all laws amendatory thereto, § 11-11-201 et seq.;

(18) [Repealed.]

(19) Insurance premium taxes, as enacted by Acts 1959, No. 148, known as the "Arkansas Insurance Code", §§ 23-60-101 — 23-60-108, 23-60-110, 23-61-101 — 23-61-112, 23-61-201 — 23-61-206, 23-61-301 — 23-61-307, 23-61-401, 23-61-402, 23-62-101 — 23-62-108, 23-62-201, 23-62-202, former § 23-62-203, § 23-62-204, § 23-62-205, § 23-63-101 [repealed], §§ 23-63-102 — 23-63-104, 23-63-201 — 23-63-216, 23-63-301, 23-63-302, §§ 23-63-401 — 23-63-404 [repealed], §§ 23-63-601 — 23-63-604, §§ 23-63-605 — 23-63-609 [repealed], §§ 23-63-610 — 23-63-613, 23-63-701, 23-63-801 — 23-63-833, 23-63-835, 23-63-836 [as added by Acts 1983, No. 522], 23-63-837 [as added by Acts 1983, No. 522], § 23-63-838 [repealed], §§ 23-63-901 — 23-63-912, 23-63-1001 — 23-63-1004, 23-64-101 — 23-64-103, 23-64-201 — 23-64-205, § 23-64-206 [repealed], § 23-64-207, § 23-64-208 [repealed], §§ 23-64-209, 23-64-210, §§ 23-64-211 — 23-64-213 [repealed], §§ 23-64-214 — 23-64-221, § 23-64-222 [repealed], §§ 23-64-223 — 23-64-227, 23-65-101 — 23-65-



104, 23-65-201 — 23-65-205, 23-65-301 — 23-65-319, 23-66-201 — 23-66-213, § 23-66-214 [repealed], §§ 23-66-301 — 23-66-306, 23-66-308 — 23-66-311, 23-66-313, 23-66-314, 23-68-101 — 23-68-113, 23-68-115 — 23-68-132, 23-69-101 — 23-69-103, 23-69-105 — 23-69-141, 23-69-143, 23-69-149 — 23-69-156, 23-70-101 — 23-70-124, 23-71-101 — 23-71-116, 23-72-101 — 23-72-122, 23-73-101 — 23-73-107, § 23-73-108 [repealed], § 23-73-109 [repealed], §§ 23-73-110 — 23-73-116, former §§ 23-74-101 — 23-74-105, §§ 23-74-106 — 23-74-141 [repealed], §§ 23-75-101 — 23-75-116, § 23-75-117 [repealed], §§ 23-75-118 — 23-75-120, 23-79-101 — 23-79-106, 23-79-109 — 23-79-128, 23-79-131 — 23-79-134, 23-79-202 — 23-79-210, 23-81-101 — 23-81-117, 23-81-120 — 23-81-136, 23-81-201 — 23-81-213, 23-82-101 — 23-82-118, 23-84-101 — 23-84-111, 23-85-101 — 23-85-131, 23-86-101 — 23-86-104, 23-86-106 — 23-86-109, 23-86-112, 23-87-101 — 23-87-119, 23-88-101, 23-89-101, 23-89-102, 26-57-601 — 26-57-605, 26-57-607, 26-57-608, and 26-57-610 and all laws amendatory thereto, with the exception of those premium taxes set aside for the various municipal firemen's pension and relief funds, for the various police officers' pension and relief funds, and for the Workers' Compensation Commission and, with the exception of those additional premium taxes set aside for the Fire Protection Premium Tax Fund, § 26-57-614, and insurance premium taxes from domestic insurers not maintaining a home office in this state as enacted by Acts 1979, No. 908, and all laws amendatory thereto, §§ 23-60-102, 26-57-601 — 26-57-605, and 26-57-607;

(20) Horse racing taxes and fees, including the portion of all moneys wagered, as set out in Acts 1957, No. 46, § 23, as amended, §§ 23-110-406, 23-110-407, § 23-110-408 [repealed], and §§ 23-110-409 and 23-110-410, the annual license fee, ten percent (10%) of admissions or ten cents (10¢) per admission, whichever sum is greater, one-third ( $\frac{1}{3}$ ) of the unredeemed pari-mutuel tickets, and the license fees of owners, trainers, jockeys, and jockeys' agents, all as enacted by Acts 1957, No. 46, known as the "Arkansas Horse Racing Law", and all laws amendatory thereto, §§ 23-110-101 — 23-110-104, 23-110-201 — 23-110-205, 23-110-301 — 23-110-307, 23-110-401 — 23-110-403, § 23-110-404 [repealed], §§ 23-110-405 — 23-110-407, § 23-110-408 [repealed], and §§ 23-110-409 — 23-110-415;

(21) Dog racing taxes and fees, including three percent (3%) of all moneys wagered up to and including one hundred twenty-five million dollars (\$125,000,000) and seven percent (7%) of all moneys wagered in excess of one hundred twenty-five million dollars (\$125,000,000) per calendar year at two hundred forty-four (244) days of racing, one-third ( $\frac{1}{3}$ ) of the odd cents or breaks, the daily operating license fee and fees paid by each greyhound owner and trainer, simulcast taxes of two percent (2%) of all moneys wagered up to and including three hundred fifty thousand dollars (\$350,000), three percent (3%) in excess of three hundred fifty thousand dollars (\$350,000) but less than or equal to five hundred thousand dollars (\$500,000), and six percent (6%) in excess of five hundred thousand dollars (\$500,000), per racing performance and



ten percent (10%) of admissions or ten cents (10¢) per admission, whichever sum is greater, as enacted by Acts 1957, No. 191, known as the "Arkansas Greyhound Racing Law", §§ 23-111-101 — 23-111-104, 23-111-201 — 23-111-205, 23-111-301 — 23-111-308, 23-111-501, 23-111-506, § 23-111-507 [repealed], and §§ 23-111-508 — 23-111-514, and all laws amendatory thereto, and the additional four (4) of six (6) days of racing authorized in § 23-111-504;

(22) Alcoholic beverages taxes, permits, licenses, and fees, including the following:

(A) Liquor gallonage taxes and imported wine taxes, as enacted by Acts 1935, No. 109, and all laws amendatory thereto, §§ 3-7-101 — 3-7-110;

(B) Permits and fees for manufacturer and dispensary privileges, as enacted by Acts 1935, No. 108, known as the "Arkansas Alcoholic Control Act", and all laws amendatory thereto, §§ 3-1-101 — 3-1-103, 3-2-101, 3-2-205, 3-3-101 — 3-3-103, 3-3-212, 3-3-401, 3-3-404, 3-3-405, 3-4-101 — 3-4-103, 3-4-201, 3-4-202, 3-4-207 — 3-4-211, 3-4-213, 3-4-214, 3-4-217, 3-4-219, 3-4-220, 3-4-301 — 3-4-303, 3-4-501, 3-4-503, 3-4-601 — 3-4-605, 3-8-301, 3-8-303, 3-8-305 — 3-8-310, 3-8-313 — 3-8-317, 3-9-237, and 23-12-708, but not including fees for grocery store wine permits authorized under § 3-5-1802;

(C) Nonintoxicating beer and wine taxes, as enacted by Acts 1933 (1st Ex. Sess.), No. 7, and all laws amendatory thereto, §§ 3-5-201 — 3-5-207, 3-5-209 — 3-5-221, 3-5-223 — 3-5-225, and 3-8-401;

(D) Brandy taxes and fees, as enacted by Acts 1953, No. 163, known as the "Native Brandy Law", and all laws amendatory thereto, § 3-6-101 et seq.;

(E) The additional taxes on native wine and beer and the additional permits fees for retail liquor and beer permits and wholesale liquor and beer permits, as enacted by Acts 1969, No. 271, and all laws amendatory thereto, §§ 3-7-111 and 3-7-506;

(F) The additional taxes on liquor and native wine, as enacted by Acts 1949, No. 282, and all laws amendatory thereto, §§ 3-3-314 and 3-7-111;

(G) The special alcoholic beverage excise taxes, as enacted by Acts 1951, No. 252, and all laws amendatory thereto, §§ 3-7-201 and 3-7-205;

(H) Wholesale and retail permits and fees for the sale of liquor and beer, as enacted by Acts 1933 (1st Ex. Sess.), No. 7, and all laws amendatory thereto, §§ 3-5-201 — 3-5-207, 3-5-209 — 3-5-221, 3-5-223 — 3-5-225, and 3-8-401;

(I) Restaurant wine permits, as enacted by Acts 1965, No. 120, and all laws amendatory thereto, §§ 3-9-301 — 3-9-303 and 3-9-305 — 3-9-307;

(J) Permits and taxes on alcoholic beverages sold for on-premises consumption, as enacted by Acts 1969, No. 132, and all laws amendatory thereto, §§ 3-9-201 — 3-9-214, 3-9-221 — 3-9-225, and 3-9-232 — 3-9-237;



(K) Seventy cents (70¢) per gallon of the tax levied upon native wine, permits and fees, as enacted by §§ 3-5-401 — 3-5-412 [repealed]; and

(L) Wine sales on-premise licenses, §§ 3-9-601 — 3-9-606;

(23) Sale of confiscated alcoholic beverages, as enacted by Acts 1947, No. 423, and all laws amendatory thereto, §§ 3-3-301 — 3-3-303, § 3-3-304 [repealed], § 3-3-308 [repealed], and §§ 3-3-311 — 3-3-314;

(24) Fees collected by the Alcoholic Beverage Control Division for transcripts and fines for violations, as enacted by Acts 1981, No. 790, and all laws amendatory thereto, §§ 3-2-201, 3-2-217, 3-4-213, 3-4-401 — 3-4-406, 3-4-502, 3-5-305, and 3-5-306;

(25) Any fines, penalties, or court costs received in connection with the collection of any of the revenues enumerated in this section;

(26) Any other taxes, fees, license fees, and permits required to be deposited into the State Treasury as provided by law and not otherwise classified;

(27) Savings and loan associations' application fees, annual fees, amendment fees, examination fees, broker's license fees, and other miscellaneous fees, as enacted by Acts 1963, No. 227, §§ 23-37-101 — 23-37-107, 23-37-201, 23-37-202, 23-37-204, 23-37-206 — 23-37-212, 23-37-214, 23-37-301 — 23-37-315, 23-37-401, 23-37-403, 23-37-405, 23-37-406, 23-37-501 — 23-37-510, 23-37-512, 23-37-601, and 23-37-701 — 23-37-705;

(28) Credit union charter fees, annual supervision fees, and examination fees, as enacted by Acts 1971, No. 132, § 23-35-101 et seq.;

(29) Sale of checks, investigation fees, annual license fees, semianual reports filing fees, and examination fees, as enacted by Acts 1965, No. 124, known as the "Sale of Checks Act", § 23-41-101 et seq. [repealed];

(30) Securities division fees, including loan broker's licenses, mortgage loan company licenses, broker-dealer licenses, agent licenses, investment advisor licenses, agent examination fees, broker-dealer examination fees, statement filing fees, quarterly reports, and proof of exemption filing fees, all as enacted by Acts 1959, No. 254, known as the "Arkansas Securities Act", and all laws amendatory thereto, §§ 23-42-101 — 23-42-110, 23-42-201 — 23-42-212, 23-42-301 — 23-42-308, 23-42-401 — 23-42-405, and 23-42-501 — 23-42-507;

(31) Professional fundraiser and solicitor fees, as enacted by §§ 4-28-401 — 4-28-416;

(32) Unclaimed security deposits, as enacted by Acts 1969, No. 296, as amended by Acts 1975, No. 1007, §§ 27-19-306, 27-19-408, 27-19-501, 27-19-503, 27-19-603, 27-19-609, 27-19-610, 27-19-612, 27-19-619 — 27-19-621, and 27-19-706 — 27-19-708;

(33) Vending devices sales taxes, as enacted in § 26-57-1001 et seq. and that portion of vending device decal fees and penalties provided in the Vending Devices Decal Act of 1997, § 26-57-1201 et seq.;

(34) Anonymous campaign contributions of fifty dollars (\$50.00) or more, as enacted by Acts 1975, No. 788, and all laws amendatory



thereto, §§ 7-6-201 — 7-6-210, 7-6-211 [repealed], 7-6-212 [repealed], 7-6-213, and 7-6-214;

(35) Telephonic sellers registration fees, § 4-99-104;

(36) [Repealed.]

(37) Arkansas Department of Transportation miscellaneous fees, permits, penalties, and fines, as enacted by Acts 1955, No. 397, known as the “Arkansas Motor Carrier Act, 1955”, and all laws amendatory thereto, § 23-13-201 et seq.;

(38) Radiation protection civil penalties, as enacted by Acts 1980 (1st Ex. Sess.), No. 67, and all laws amendatory thereto, § 20-21-401 et seq.;

(39) That portion of the reinstatement fees under § 5-65-119(a)(2)(C), and that portion of the reinstatement fees under §§ 5-65-304(d) and 5-65-310(f);

(40) Short-term rental of tangible personal property tax, § 26-63-301;

(41) Excess campaign contributions, as enacted by § 7-6-203;

(42) Retail pet store registration fees, as enacted by § 4-97-104;

(43) Rental vehicle tax, § 26-63-302;

(44) Residential moving tax, § 26-63-303;

(45) Arkansas Quarry Operation, Reclamation, and Safe Closure Act fees, fines, and bond forfeiture amounts, § 15-57-401 et seq.;

(46) [Repealed.]

(47) [Repealed.]

(48) Arkansas Feed Law of 1997 penalties, § 2-37-113;

(49) Election, voter registration law, and State Board of Election Commissioners fines, § 7-4-118 [repealed];

(50) Remaining funds on dissolution of ballot question committees or legislative question committees, § 7-9-404;

(51) Uniform Athlete Agents Act registration and renewal fees, § 17-16-109;

(52) Until July 1, 2011, moneys in excess of one million dollars (\$1,000,000) in the Securities Department Fund from collections of securities agents initial or renewal registration filing fees and securities registration statement filing fees, § 23-42-211(a)(4);

(53) Human cloning fines, § 20-16-1002;

(54) The first three dollars (\$3.00) of each unregistered vehicle temporary preprinted paper buyer's tag fee, § 27-14-1705;

(55) Electronic games of skill privilege fees and all permit or license fees, penalties, and fines received by the Arkansas Racing Commission, § 23-113-604;

(56) Prohibited employment of relatives civil penalties, § 25-16-1001 et seq.;

(57) The first six hundred seventy-five thousand dollars (\$675,000) of the five percent (5%) of the severance tax collected on natural gas at the rates enacted by § 26-58-111(5);

(58) Seventy-six and six-tenths percent (76.6%) of all taxes, interest, penalties, and costs on taxes levied on the gross receipts or gross proceeds derived from the sale of food and food ingredients, § 26-52-317(c)(1)(A);



(59) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received on excise taxes levied on the gross receipts or gross proceeds derived from the sale of natural gas and electricity to a manufacturer for use directly in the actual manufacturing process, § 26-52-319(a)(1)(A);

(60) Seventy-six and six-tenths percent (76.6%) of the taxes, interest, penalties, and costs received on taxes levied on the privilege of storing, using, distributing, or using food and food ingredients, § 26-53-145(c)(1)(A);

(61) Seventy-six and six-tenths percent (76.6%) of the tax, interest, penalties, and costs received on excise taxes levied on the sales price of natural gas and electricity purchased by a manufacturer for use directly in the actual manufacturing process, § 26-53-148(a)(1)(A);

(62) Seventy-six and six-tenths percent (76.6%) of the excise taxes levied on all dyed distillate special fuel sold, used, or utilized in the state, § 26-56-224(c)(1);

(63) That portion of Unified Carrier Registration Act of 2005, Pub. L. No. 109-59, § 4301 et seq. — fines and penalties, § 23-13-605;

(64) Charitable bingo and raffle license fees and excise taxes levied as enacted by §§ 23-114-302, 23-114-307, and 23-114-601;

(65) Additional tax on cigarettes and tobacco products other than cigarettes, as enacted by Acts 2009, No. 180, and all laws amendatory thereto, § 26-57-801 et seq.;

(66) Partial-birth abortion civil fines and penalties, as enacted by Acts 2009, No. 196, and all laws amendatory thereto, the Partial-Birth Abortion Ban Act, § 20-16-1201 et seq.;

(67) International student exchange visitor placement organization registration fees, as enacted by Acts 2009, No. 966, and all laws amendatory thereto, the International Student Exchange Visitor Placement Organization Registration Act, § 6-18-1701 et seq.;

(68) [Repealed.]

(69) Certification of tobacco product manufacturers civil penalties, § 26-57-1303(a)(10)(B);

(70) Sale, distribution, and stamping of tobacco products civil penalties, § 26-57-1306(f)(1);

(71) Permit fees or taxes, label fees, penalties, fines, proceeds of all forfeitures, special inspection fees and costs as enacted by Acts 2013, No. 483, and all laws amendatory thereto, the Direct Shipment of Vinous Liquor Act, § 3-5-1701 et seq.;

(72) The first four and one-half (4½) mills on gas assessments levied each fiscal year until July 1, 2023, under § 15-71-107(b)(2)(A)(i);

(73) Fines received by the State Board of Election Commissioners, § 7-4-120(h)(4); and

(74) Paid fantasy sports games tax, § 23-116-104.

**History.** Acts 1973, No. 808, § 7; 1975, § 16; A.S.A. 1947, § 13-503.6; Acts 1987, No. 863, § 6; 1979, No. 1027, §§ 1, 10; No. 792, §§ 1, 6; 1989, No. 551, § 1; 1993, 1983, No. 222, §§ 1, 2; 1985, No. 65, §§ 1, No. 1072, §§ 1, 2, 16; 1993, No. 1073, 2; 1985, No. 479, § 14; 1985, No. 888, § 28; 1995, No. 270, §§ 1, 12; 1997, No.



298, §§ 1, 12; 1999, No. 282, §§ 1, 2; 1999, No. 1152, § 3; 2001, No. 229, §§ 1-4; 2003, No. 28, §§ 1-6; 2005, No. 20, § 1; 2007, No. 182, §§ 17-19; 2007, No. 407, § 1; 2008 (1st Ex. Sess.), No. 4, §§ 2, 3; 2008 (1st Ex. Sess.), No. 5, §§ 2, 3; 2009, No. 484, § 1; 2009, No. 1464, § 1; 2011, No. 1008, § 1; 2011, No. 1058, § 1; 2013, No. 747, § 1; 2013, No. 1393, § 2; 2013, No. 1411, §§ 5, 6; 2015, No. 299, § 26; 2015, No. 536, § 1; 2015, No. 705, § 1; 2015, No. 1046, § 3; 2015, No. 1207, § 1; 2016 (3rd Ex. Sess.), No. 1, § 11; 2017, No. 508, § 8; 2017, No. 707, § 53; 2017, No. 977, § 3; 2017, No. 1051, §§ 1, 2; 2017, No. 1075, § 1; 2017, No. 1119, § 1; 2019, No. 705, § 3; 2021, No. 146, § 2; 2021, No. 437, § 3; 2021, No. 576, § 1.

**Amendments.** The 2017 amendment by No. 508, in (22)(B), deleted “3-4-215 [repealed]”, “3-8-302 [repealed]”, “3-8-304 [repealed]”, and “3-8-311 [repealed]”, and added “but not including fees for grocery store wine permits authorized under § 3-5-1802”.

The 2017 amendment by No. 707 substituted “Department of Transportation” for “State Highway and Transportation Department” in (37).

The 2017 amendment by No. 977 substituted “2019” for “2017” in (72).

The 2017 amendment by No. 1051 substituted “one (1) fiscal year budget” for “three (3) fiscal year budgets” in (15); and added (73).

The 2017 amendment by No. 1075 added (74).

The 2017 amendment by No. 1119 substituted “three dollars (\$3.00)” for “two dollars and fifty cents (\$2.50)” in (54).

The 2019 amendment substituted “July 1, 2021” for “July 1, 2019” in (72).

The 2021 amendment by No. 146 repealed (36).

The 2021 amendment by No. 437 substituted “July 1, 2023” for “July 1, 2021” in (72).

The 2021 amendment by No. 576, in (27), deleted “23-37-203 [repealed]”, “23-37-205 [repealed]”, “23-37-213 [repealed]”, and “23-37-511 [repealed]”, and substituted “23-37-601” for “23-37-601 — 23-37-603”.

**Effective Dates.** Acts 2017, No. 508, § 13(a): Oct. 1, 2017. Effective date clause provided: “Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, and 12 of this act become effective on October 1, 2017.”

Acts 2017, No. 1119, § 4: Nov. 13, 2017.

## SUBCHAPTER 3 — SPECIAL REVENUES

### SECTION.

19-6-301. Special revenues enumerated.

**Effective Dates.** Acts 2017, No. 508, § 13(a): Oct. 1, 2017. Effective date clause provided: “Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, and 12 of this act become effective on October 1, 2017.”

Acts 2017, No. 532, § 10: Mar. 20, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the present system for registering commercial motor vehicles is inconvenient, expensive, unduly time-consuming, and lacks the software capabilities offered by comparable systems in other states to facilitate the registration process electronically. In order to make the Arkansas Motor Carrier System operational on or before January 1, 2018 as required by this act, the Department of Finance and Administration must be authorized to immediately com-

mence planning, programming, and promulgating the necessary rules, regulations, and procedures pertaining to the necessary system enhancements. These enhancements are estimated to take more than six (6) months to complete. Moreover, due to the lack of clarity in current law, commercial motor carriers currently face potential unwarranted liability for acts or omissions involving license plates and registrations. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the

Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2017, No. 555, § 8: July 1, 2017. Emergency clause provided: “It is found and determined by the General Assembly that this act amends the investment and transfer authority of the Treasurer of State; that this act affects the ability of the Treasurer of State to invest and transfer state funds; and that this act should become effective as soon as possible to allow for implementation of the new provisions to benefit the State of Arkansas. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2017.”

Acts 2017, No. 977, § 5: Apr. 7, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the activities funded by general revenue are necessary for the preservation of the public peace, health, and safety; that increased general revenue funding is essential to the performance of these activities; and that this act is immediately necessary because without that increased funding, these activities may be compromised. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2017, No. 1046, § 5: Apr. 6, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that certain provisions of the tax credit allocations for waste reduction, reuse, or recycling equipment should be modified to ensure that the expansion of major projects utilizing the tax credit does not endanger the ability of the state to provide essential services or to provide the full value of the tax credits earned by the applicable businesses; that further investment for the tax credit allocations for waste reduction, reuse, or recycling equipment will increase the number of applicable tax credits in existence; and that the state must main-

tain a balanced budget necessary to deliver essential services to its citizens; and that this act is immediately necessary because, without this change, the ability of the State of Arkansas to ensure the delivery of essential services to citizens will be imperiled and could endanger the economic health of the state. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2017, No. 1051, § 8: July 1, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law in 1973 that have changed or created various revenues collected by the state, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees, and other revenues levied and collected for the support of and use by state government as they currently exist and from which appropriations that become effective July 1, 2017, have been made by the Ninety-First General Assembly. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2017.”

Acts 2019, No. 416, § 8: Oct. 1, 2019. Effective date clause provided: “Sections 4-7 of this act are effective on the first day of the calendar quarter following the effective date of this act.”

Acts 2019, No. 705, § 5: Apr. 4, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the activities funded by general revenue are necessary for the preservation of the public peace, health, and safety; that increased general revenue funding is essential to the performance of these activities; and that this act is immediately necessary because without that increased funding, these activities may be compromised. Therefore, an emergency is declared to exist, and this act



being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is

declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

Acts 2021, No. 376, § 3: Jan. 1, 2022.

Acts 2021, No. 437, § 5: Mar. 24, 2021. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the activities funded by general revenue are necessary for the preservation of the public peace, health, and safety; that increased general revenue funding is essential to the performance of these activities; and that this act is immediately necessary because without that increased funding, these activities may be compromised. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

### 19-6-301. Special revenues enumerated.

The special revenues of the state, its agencies, departments, institutions, commissions, and boards, as provided by law and as required by law to be deposited into the State Treasury, shall consist of the following, as described by their commonly known titles:

(1) The remainder of motor vehicle operator and chauffeur licenses and penalties, as confirmed and enacted by § 12-8-301 et seq., known as the “Division of Arkansas State Police Communications Equipment Leasing Act”, which are not required for debt service requirements that are authorized to be deposited into the State Treasury under §§ 12-8-307 — 12-8-310;

(2) Motor vehicle registration and license fees, as enacted by Acts 1929, No. 65, §§ 26-55-101, 27-14-305, 27-14-601, § 27-15-1501 [repealed], §§ 27-64-104, 27-65-101, 27-65-107, 27-65-110, 27-65-112, 27-65-131 — 27-65-133, 27-67-101, 27-67-102, 27-67-201, 27-67-206 — 27-67-208, 27-67-211, 27-67-214, and 27-67-218, and all laws amendatory thereto, Acts 1965, No. 87, § 27-15-4001, Acts 1959, No. 122, § 27-15-2101 [repealed], Acts 1959, No. 189, § 27-15-2003 [repealed], and Acts 1969, No. 36, §§ 27-15-401 — 27-15-406 [repealed];

(3) Distillate special motor fuels taxes and liquefied gas special motor fuels taxes and license and permit fees, as enacted by § 26-56-



101 et seq., known as the "Special Motor Fuels Tax Law", and all laws amendatory thereto, including the:

(A) Eight and one-half cent (8.5¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(i) and the one cent (1¢) tax on distillate special motor fuels levied by § 26-56-201(a)(1)(A)(ii);

(B) Seven and one-half cent (7.5¢) tax on liquefied gas special motor fuels levied by § 26-56-301(a);

(C) Additional one cent (1¢) tax on distillate special motor fuels levied by § 26-56-201(a)(2);

(D) Additional four cent (4¢) tax on liquefied gas special motor fuels and the additional two cent (2¢) tax on distillate special motor fuels levied by § 26-56-502(a);

(E) Additional four cent (4¢) tax on distillate special motor fuels levied by § 26-56-201(d)(1);

(F) Additional five cent (5¢) tax on liquefied gas special motor fuels and the additional two cent (2¢) tax on distillate special motor fuels levied by § 26-55-1201(a) and § 26-56-601; and

(G) Additional liquefied gas special motor fuels user permit fees levied in § 26-55-1002;

(4) Gasoline taxes, as enacted by the Motor Fuel Tax Law, § 26-55-201 et seq., including the:

(A) Eight and one-half cent (8.5¢) tax on motor fuels levied by § 26-55-205(a);

(B) Additional one cent (1¢) tax on motor fuels levied by § 26-55-205(b);

(C) Additional four cent (4¢) tax on motor fuels levied by § 26-55-1002(a);

(D) Additional five cent (5¢) tax on motor fuels levied by § 26-55-1201(a) and § 26-56-601; and

(E) Additional total of three cents (3¢) tax on motor fuels levied by § 26-55-1006;

(5) Fireworks licenses, as enacted by Acts 1961, No. 224, and all laws amendatory thereto, §§ 20-22-701 — 20-22-715;

(6) Timberlands taxes, as enacted by Acts 1969, No. 354, known as the "Forest Fire Protection Tax Act of 1969", and all laws amendatory thereto, § 26-61-101 et seq., state forests and nurseries management income not deposited into the State Forestry Trust Fund, §§ 15-31-115 and 19-5-927; law enforcement fine collections, §§ 15-31-113 and 15-31-114; and timber management plan fees, § 15-31-111;

(7) Motor vehicle in-transit fees, as enacted by Acts 1935, No. 183, and all laws amendatory thereto, §§ 27-14-1801 — 27-14-1808;

(8) Motor vehicle drive-out licenses, as enacted by Acts 1955, No. 111, §§ 27-14-2101 — 27-14-2105;

(9) Motor vehicle certificates of title and duplicates, noting liens, transfer of registration and duplicate or substitute registration certificates and license plates, § 27-14-602, in excess of and after the amounts required to pay the principal and interest on loans and bonds have been made under the 1995 New Revenue Division Building Act, Acts 1995, No. 725;



(10) Overweight and special permits for vehicles and overlength crane permits, as enacted by Acts 1955, No. 98, and all laws amendatory thereto, §§ 27-35-201 — 27-35-203, 27-35-206 — 27-35-208, and 27-35-210; and, overwidth or overlength mobile home permits, as enacted by Acts 1971, No. 264, and all laws amendatory thereto, § 27-35-211 and § 27-35-301 et seq.;

(11) Motor vehicle title registration fees and the noting of liens fees, as enacted by Acts 1949, No. 142, known as the “Uniform Motor Vehicle Administration, Certificate of Title, and Antitheft Act”, and all laws amendatory thereto, § 27-14-101 et seq., § 27-14-201 et seq. [repealed], §§ 27-14-301 — 27-14-304, 27-14-306 — 27-14-308, 27-14-310, 27-14-312, 27-14-313, § 27-14-401 et seq., §§ 27-14-602, 27-14-604, 27-14-606, 27-14-701, 27-14-703, 27-14-705, 27-14-707, 27-14-708, 27-14-710 — 27-14-716, 27-14-718 — 27-14-722, 27-14-801 — 27-14-804, 27-14-901 — 27-14-904, § 27-14-905 [repealed], §§ 27-14-906 — 27-14-913, § 27-14-1701 et seq., § 27-14-2001 et seq., § 27-14-2203 [repealed], §§ 27-14-2204, 27-14-2205, 27-14-2207, 27-14-2210, and 27-14-2211, which are in excess of the amount required by Acts 1961 (1st Ex. Sess.), No. 38, known as the “Arkansas Revenue Department Building Act”, to be cash funds pledged for the principal and interest payments of the Arkansas Revenue Department Building Commission revenue bonds;

(12) Soybean assessments, as enacted by Acts 1971, No. 259, §§ 2-20-401, 2-20-403, 2-20-404, and 2-20-406 — 2-20-409;

(13) Paying patients’ fees, excluding those received from Medicare or Medicaid and the Social Security Administration, or from other sources which cause a decrease in the monthly vendor payment, for services provided by the appropriate Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services and Division of Developmental Disabilities Services divisions and programs of the Department of Human Services;

(14) Fees received by the Arkansas Crime Information Center for driver’s records and other informational services, as enacted by Acts 1971, No. 286, and all laws amendatory thereto, §§ 12-12-201 — 12-12-203, 12-12-206, 12-12-207, 12-12-209, and 12-12-211 — 12-12-213;

(15) Dog racing taxes derived from all revenues from the pari-mutuel tax of fifteen (15) additional days of dog races authorized by §§ 23-111-502 — 23-111-505, and all laws amendatory thereto;

(16) Dog racing taxes derived from two-thirds ( $\frac{2}{3}$ ) of the net proceeds of three (3) additional days of dog races at each meet, as authorized by § 23-111-503(a)(2), and all laws amendatory thereto;

(17) Aviation sales and use taxes, as enacted by Acts 1967, No. 449, and all laws amendatory thereto, § 27-115-110;

(18) Revenue received from saw timber and timber products severance taxes and twenty-five percent (25%) of all other severance taxes, with the exception of the severance tax collected on natural gas, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, §§ 26-58-101 — 26-58-103, 26-58-106 — 26-58-111, 26-58-114 — 26-58-116, 26-58-118 — 26-58-120, 26-58-123, and 26-58-124;



(19) Motor fuel tax forms, including books and decals, as enacted by Acts 1967, No. 376, § 26-55-713;

(20) Motor boat registration fees, as enacted by Acts 1959, No. 453, and all laws amendatory thereto, §§ 27-101-101 — 27-101-109, § 27-101-201 et seq., §§ 27-101-301 — 27-101-306, and 27-101-308 — 27-101-312;

(21) Three percent (3%) municipal taxes, which are further identified as the three percent (3%) collection cost of the one percent (1%) gross receipts tax levied by a city having a population of not more than thirty thousand (30,000) persons that has been designated as a model city, as authorized by Acts 1968 (1st Ex. Sess.), No. 4, and all laws amendatory thereto, §§ 26-75-501 — 26-75-507;

(22) Drivers' search fees, as enacted by Acts 1977, No. 465, and all laws amendatory thereto, §§ 27-50-901 — 27-50-903, and 27-50-905 — 27-50-909, § 27-50-910 [repealed], § 27-50-911, Acts 1989, No. 241, § 27-23-118(b)(2) and § 27-23-118(c)(2);

(23) [Repealed.]

(24) Private career education school licenses and fees, as enacted by Acts 1989, No. 906, and all laws amendatory thereto, §§ 6-51-601 — 6-51-617;

(25) Elevator safety board fees, as enacted by Acts 1963, No. 189, and all laws amendatory thereto, §§ 20-24-101 — 20-24-117, and 20-24-119;

(26) Net proceeds derived from the sale of pine grown on state highway rights-of-way or other highway-related areas, as enacted by Acts 1983, No. 696, § 22-5-101;

(27) Those insurance premium taxes set aside for firemen's and police officers' pension and relief and related purposes, §§ 24-11-301 and 24-11-809, with the exception of those premium taxes set aside for transfer to the State Police Retirement Fund under § 24-6-209(b);

(28) Bank department charter fees, assessments, and examination fees, as enacted by Acts 1913, No. 113, and all laws amendatory thereto, § 16-110-406, § 23-30-101 [repealed], §§ 23-31-201 — 23-31-205 [repealed], §§ 23-31-212 — 23-31-215 [repealed], § 23-32-102 [repealed], former §§ 23-32-201 — 23-32-204, former § 23-32-208, former § 23-32-210, § 23-32-216 [repealed], § 23-32-222 [repealed], § 23-32-224 [repealed], § 23-32-225 [repealed], § 23-32-227 [repealed], § 23-32-228 [repealed], § 23-32-701 [repealed], §§ 23-32-703 — 23-32-705 [repealed], § 23-32-710 [repealed], § 23-32-713 [repealed], § 23-32-716 [repealed], § 23-32-803 [repealed], § 23-32-905 [repealed], § 23-32-1001 [repealed], § 23-32-1002 [repealed], § 23-32-1006 [repealed], § 23-32-1008 [repealed], §§ 23-32-1101 — 23-32-1103 [repealed], § 23-32-1106 [repealed], §§ 23-32-1108 — 23-32-1111 [repealed], §§ 23-33-101 — 23-33-103 [repealed], § 23-33-105 [repealed], § 23-33-106 [repealed], §§ 23-33-201 — 23-33-207 [repealed], § 23-33-212 [repealed], § 23-33-213 [repealed], §§ 23-33-301 — 23-33-308 [repealed], § 23-33-310 [repealed], § 23-34-101 [repealed], § 23-34-103 [repealed], § 23-34-105 [repealed], § 23-34-106 [repealed], § 23-34-108 [repealed], § 23-34-110 [repealed], and § 23-34-111 [repealed];



(29) Industrial loan institutions assessments and examination fees, as enacted by Acts 1941, No. 111, §§ 23-36-101 — 23-36-117;

(30) Various asset forfeiture proceeds, § 5-64-505(f)(5)(B), § 5-64-505(h)(1)(A), and § 5-64-505(i);

(31) Fees recovered from ex-offenders on probation or parole from a facility of the Division of Community Correction, as enacted by Acts 1981, No. 70, and all laws amendatory thereto, § 16-93-104;

(32) Liquefied petroleum gas board filing fees, inspection fees, registration fees, permits, and certificates of competency, as enacted by Acts 1965, No. 31, known as the "Liquefied Petroleum Gas Board Act", and all laws amendatory thereto, §§ 15-75-101 — 15-75-108, 15-75-110, 15-75-201 — 15-75-204, § 15-75-205 [repealed], §§ 15-75-206 — 15-75-209, 15-75-301 — 15-75-321, and 15-75-401 — 15-75-405;

(33) Brand registration, sales of state brand books, and fees for transfer of brand titles, as enacted by Acts 1959, No. 179, § 2-34-201, § 2-34-202 [repealed], § 2-34-203, § 2-34-204 [repealed], §§ 2-34-205 — 2-34-212;

(34) Arkansas Livestock and Poultry Commission fees and revenues as enacted by Acts 1981, No. 867, and all laws amendatory thereto, § 2-33-113(a), consisting of:

(A) Income from the livestock spraying program, as enacted by Acts 1969, No. 360, and all laws amendatory thereto, § 2-33-207 [repealed] and § 2-33-208 [repealed];

(B) Poultry and egg grading fees as enacted by Acts 1969, No. 220, known as the "Arkansas Egg Marketing Act of 1969", and all laws amendatory thereto, § 20-58-201 et seq.;

(C) Acts 1965, No. 49, and all laws amendatory thereto, §§ 2-33-301 — 2-33-305, and 2-33-307;

(D) Acts 1975 (Extended Sess., 1976), No. 1216, and all laws amendatory thereto, §§ 2-33-306 and 2-33-307;

(E) Carcass data information and feeder pig and feeder calf grading fees, as enacted by Acts 1973, No. 454, and all laws amendatory thereto, §§ 2-33-201 — 2-33-206 [repealed];

(F) Livestock and poultry diagnostic service fees, § 2-33-111;

(G) State, county, and district paid admission surcharges, § 2-33-115(a)(3) [repealed]; and

(H) Small animal testing fees, as enacted by Acts 1981, No. 770, and all laws amendatory thereto, § 2-33-112 [repealed];

(35) Arkansas Rice Research and Promotion Board assessments, § 2-20-507;

(36) Boiler inspection fees, certificates of competency, permits, examination fees, and licenses, as enacted by Acts 1961, No. 494, and all laws amendatory thereto, §§ 20-23-101 — 20-23-105, § 20-23-201 [repealed], §§ 20-23-202, 20-23-203, 20-23-301 — 20-23-313, and 20-23-401 — 20-23-405;

(37) Motor vehicle registration reinstatement fees, § 27-22-104, and motor vehicle insurance reporting penalties, § 27-22-107;

(38) Special motor-driven cycle and bicycle operators' licenses and certificates, as enacted by §§ 27-20-101 — 27-20-116;



(39) Polygraph examiner's examination and license fees, as enacted by Acts 1967, No. 413, known as the "Polygraph Examiners Licensing Act", §§ 17-39-101 — 17-39-107, § 17-39-108 [repealed], §§ 17-39-109, and 17-39-201 — 17-39-214;

(40) Private investigator's application fees, agency fees, and license fees and security guard fines and fees, as enacted by Acts 1977, No. 429, known as the "Private Security Agency, Private Investigator, and School Security Licensing and Credentialing Act", and all laws amendatory thereto, §§ 17-40-101 — 17-40-104, 17-40-204, 17-40-207 — 17-40-209, 17-40-301, 17-40-302, 17-40-306 — 17-40-317, 17-40-329 — 17-40-332, 17-40-337, 17-40-339, 17-40-340, 17-40-342 — 17-40-344, and 17-40-349 — 17-40-355;

(41) Cosmetology board examination, registration, license, duplicate license, reinstatements, reciprocity, renewal and delinquent licenses and fees, as enacted by Acts 1955, No. 358, known as the "Cosmetology Act", and all laws amendatory thereto, §§ 17-26-101 — 17-26-105, 17-26-201, § 17-26-202 [repealed], § 17-26-203 [repealed], §§ 17-26-204 — 17-26-210, § 17-26-301 [repealed], §§ 17-26-302 — 17-26-304, § 17-26-305 [repealed], § 17-26-306, § 17-26-307, § 17-26-308 [repealed], §§ 17-26-309 — 17-26-312, § 17-26-313 [repealed], §§ 17-26-314 — 17-26-319, § 17-26-320 [repealed], §§ 17-26-321, and 17-26-401 — 17-26-415, § 17-26-416 [repealed], and §§ 17-26-417 and 17-26-418;

(42) That portion not declared to be "pledged revenues" for debt service on any certificates of indebtedness issued under Acts 1983, No. 458, §§ 22-3-1201 — 22-3-1214, § 22-3-1215 [repealed], and §§ 22-3-1216 — 22-3-1219, and that portion not declared cash funds paid to the Arkansas Development Finance Authority for deposit into the Correction Facilities Privatization Account of the Correction Facilities Construction Fund, § 22-3-1210(c)(1)(A), of the Division of Correction's income from its farm operations, including sale of farm products and livestock, rental of farm properties, and payments from agencies of the state or federal government in connection with the farm operations, as enacted by Acts 1968 (1st Ex. Sess.), No. 50, and all laws amendatory thereto, §§ 12-27-101 — 12-27-105, 12-27-107 — 12-27-109, 12-27-112, 12-27-113, 12-27-115, 12-27-118, 12-27-120, 12-28-102, 12-29-101, former 12-29-102, 12-29-103, 12-29-104, 12-29-107, 12-29-112, 12-29-401, 12-30-301, 12-30-306, 12-30-401, 12-30-403, 12-30-405 — 12-30-407, § 12-30-408 [repealed], §§ 16-93-101, 16-93-102, former § 16-93-201, §§ 16-93-202 — 16-93-204, 16-93-601, 16-93-610, 16-93-701, 16-93-705, and 25-8-106;

(43) That portion not declared to be "pledged revenues" for debt service on any certificates of indebtedness issued under Acts 1983, No. 458, §§ 22-3-1201 — 22-3-1214, § 22-3-1215 [repealed], §§ 22-3-1216 — 22-3-1219, of the Division of Correction's sales, or dispositions of articles and products manufactured or produced by prison labor, as enacted by Acts 1967, No. 473, known as the "Prison-Made Goods Act of 1967", § 12-30-201 et seq.;

(44) [Repealed.]



(45) Interest on investments held in the University of Arkansas Endowment Fund, as enacted by Acts 1945, No. 249 [repealed], and all laws amendatory thereto;

(46) Pest control service work examination fees, operators' licenses, and agents' and solicitors' registration fees, as enacted by Acts 1975, No. 488, known as the "Arkansas Pest Control Law", and all laws amendatory thereto, §§ 17-37-101 — 17-37-105, § 17-37-106 [repealed], §§ 17-37-107, 17-37-201, and 17-37-203 — 17-37-221;

(47) Liming material registration fees and inspection fees, as enacted by Acts 1969, No. 353, known as the "Arkansas Agricultural Liming Materials Act", §§ 2-19-301 — 2-19-308;

(48) Fertilizer registration fees for manufacturers, jobbers, and manipulators of commercial fertilizers and fertilizer inspection fees, as enacted by Acts 1951, No. 106, and all laws amendatory thereto, §§ 2-19-201 — 2-19-210;

(49) Nursery dealers, agents, and salesperson's license fees, as enacted by Acts 1919, No. 683, known as the "Arkansas Nursery Fraud Act of 1919", and all laws amendatory thereto, § 2-21-101 et seq.;

(50) Arkansas Feed Law of 1997 inspection fees, and registration and license fees, § 2-37-101 et seq.;

(51) Pesticide registration fees, as enacted by Acts 1975, No. 410, known as the "Arkansas Pesticide Control Act", and all laws amendatory thereto, § 2-16-401 et seq.;

(52) Pesticide commercial, noncommercial, private and pilot applicators' license fees, pesticide dealers' license fees, and inspection and permit fees, as enacted by Acts 1975, No. 389, known as the "Arkansas Pesticide Use and Application Act", and all laws amendatory thereto, § 20-20-201 et seq.;

(53) Fees for seed inspection and certificate of inspection tags, as enacted by Acts 1931, No. 73, and all laws amendatory thereto, §§ 2-16-206 and 2-18-101 — 2-18-108;

(54) Agricultural products inspection fees and inspectors' licenses, as enacted by Acts 1925, No. 218, known as the "Agricultural Products Grading Act of 1925", § 2-20-101 et seq.;

(55) Inspection, treatment, and certification fees for insect pests and diseases, plants, planting seeds, noxious weeds, or other substance, as enacted by Acts 1917, No. 414, known as the "Arkansas Plant Act of 1917", § 2-16-201 et seq., and Acts 1921, No. 519, known as the "Arkansas Emergency Plant Act of 1921", § 2-16-301 et seq.;

(56) Annual license fees, application investigation fees, and fines from precious stones and precious metals buyers, as enacted by Acts 1981, No. 87, and all laws amendatory thereto, §§ 17-23-101 — 17-23-104, 17-23-201 — 17-23-207, and § 17-23-208 [repealed];

(57) [Repealed.]

(58) Individual sewage disposal systems fees, as enacted by Acts 1977, No. 402, known as the "Arkansas Sewage Disposal Systems Act", and all laws amendatory thereto, § 14-236-101 et seq.;

(59) Hazardous waste transporter, generator, and management facility fees, as enacted by Acts 1980 (1st Ex. Sess.), No. 5 [superseded], and all laws amendatory thereto, and § 8-7-226;

(60) Nuclear planning and response fees collected from each utility in the state which operates one (1) or more nuclear generating facilities, as enacted by Acts 1980 (1st Ex. Sess.), No. 67, and all laws amendatory thereto, §§ 20-21-401 — 20-21-405;

(61) Brine taxes imposed upon all brine produced in the state for the purpose of bromine extraction, as enacted by Acts 1979, No. 759, and all laws amendatory thereto, § 26-58-301;

(62) Oil and Gas Commission fees, including oil assessments, gas assessments in excess of four and one-half (4½) mills each fiscal year until July 1, 2023, under § 15-71-107(b)(2)(A)(i), drilling permits, permits for plugging wells, and permits for each salt water well, all as enacted by Acts 1939, No. 105, and all laws amendatory thereto, §§ 15-71-101 — 15-71-112, 15-72-101 — 15-72-110, 15-72-205, 15-72-212, 15-72-216, 15-72-301 — 15-72-324, and 15-72-401 — 15-72-407, and the portion of taxes levied on salt water used in bromine production, as enacted by Acts 1947, No. 136, and all laws amendatory thereto, § 26-58-111(9);

(63) Arkansas State Game and Fish Commission licenses, fees, tags, permits, and fines, all as authorized by Arkansas Constitution, Amendment 35, annual resident hunting and fishing licenses, §§ 15-42-104 and 15-42-110; all interest earned on Arkansas State Game and Fish Commission funds, § 15-41-110; all fees, compensation, or royalties for mineral leases or permits for lands held in the name of the Arkansas State Game and Fish Commission, § 22-5-809(c)(3); all assessed fines as set out in § 15-41-209; and forty-five percent (45%) of the additional one-eighth of one percent (⅛ of 1%) sales and use tax authorized by Arkansas Constitution, Amendment 75;

(64) Plumbers' licenses, examination fees, permits, and registration fees, as enacted by Acts 1951, No. 200, and all laws amendatory thereto, §§ 17-38-101 — 17-38-103, 17-38-201 — 17-38-205, and 17-38-301 — 17-38-310;

(65) Fees for medical identification tags and bracelets, as enacted by Acts 1965, No. 433, § 20-7-119;

(66) [Repealed.]

(67) Seventy-five percent (75%) of child passenger protection act fines, as enacted by Acts 1983, No. 749, known as the "Child Passenger Protection Act", § 27-34-101 et seq.;

(68) Dairy products licenses, permits, and fees, as enacted by Acts 1941, No. 114, and all laws amendatory thereto, §§ 20-59-201 — 20-59-247;

(69) Department of Health vital statistics fees and other specified fees, as set out in § 20-7-123;

(70) Arkansas Public Service Commission annual assessment fees, as enacted by Acts 1945, No. 40, §§ 23-2-101, 23-2-103 — 23-2-105, 23-2-108, 23-2-109, 23-2-403, 23-2-406, 23-2-407, 23-2-409, 23-2-413,



23-2-418, 23-3-109, and 23-3-110, and Acts 1935, No. 324, §§ 14-200-101, 14-200-103 — 14-200-108, 14-200-111, 23-1-101 — 23-1-112, 23-2-301, 23-2-303 — 23-2-308, 23-2-310, 23-2-312, 23-2-314 — 23-2-316, § 23-2-402, § 23-2-404 [repealed], §§ 23-2-405, 23-2-408, 23-2-410 — 23-2-412, 23-2-414 — 23-2-421, 23-2-426, 23-2-428, 23-2-429, 23-3-101 — 23-3-107, 23-3-112 — 23-3-115, 23-3-118, 23-3-119, 23-3-201 — 23-3-206, 23-4-102, 23-4-103, 23-4-105 — 23-4-109, 23-4-205, 23-4-402 — 23-4-405, 23-4-407 — 23-4-418, 23-4-620 — 23-4-634, and 23-18-101, and all laws amendatory thereto;

(71) Arkansas Public Service Commission miscellaneous fees, as enacted by Acts 1935, No. 324, §§ 14-200-101, 14-200-103 — 14-200-108, 14-200-111, 23-1-101 — 23-1-112, 23-2-301, 23-2-303 — 23-2-308, 23-2-310, 23-2-312, 23-2-314 — 23-2-316, 23-2-402, § 23-2-404 [repealed], §§ 23-2-405, 23-2-408, 23-2-410 — 23-2-412, 23-2-414 — 23-2-421, 23-2-426, 23-2-428, 23-2-429, 23-3-101 — 23-3-107, 23-3-112 — 23-3-115, 23-3-118, 23-3-119, 23-3-201 — 23-3-206, 23-4-102, 23-4-103, 23-4-105 — 23-4-109, 23-4-205, 23-4-402 — 23-4-405, 23-4-407 — 23-4-418, 23-4-620 — 23-4-634, and 23-18-101, and Acts 1949, No. 262, §§ 23-3-109 and 23-16-101 — 23-16-106, and all laws amendatory thereto;

(72) Board of electrical examiners examination, license, and penalty fees, as enacted by Acts 1979, No. 870, § 17-28-101 et seq., § 17-28-201 et seq., and § 17-28-301 et seq., and Acts 1981, No. 132, and all laws amendatory thereto;

(73) Milk inspection fees, as enacted by Acts 1981, No. 587, and all laws amendatory thereto, §§ 20-59-401 — 20-59-406 and § 20-59-407 [repealed];

(74) Proceeds from sales of tax-forfeited lands, as enacted by Acts 1929, No. 129, and all laws amendatory thereto, § 26-37-210;

(75) Redemption of tax-forfeited lands and quitclaim deed fees, as enacted by Acts 1891, No. 151, and all laws amendatory thereto, § 26-37-310 et seq.;

(76)(A) Commissioner of State Lands fees, including patent fees, as enacted by Acts 1883, No. 117, § 21-6-203;

(B) Deed fees, as enacted by Acts 1931, No. 245, § 22-5-408;

(C) Donation deed fees, as enacted by Acts 1883, No. 117, § 21-6-203;

(D) Field notes and plats fees, as enacted by Acts 1881, No. 12, §§ 22-5-701 and 22-5-702;

(E) Certificate of donation to forfeited land fees, as enacted by Acts 1883, No. 117, § 21-6-203; and

(F) Those fees as specified in Acts 1983, No. 886, § 21-6-203;

(77) Proceeds from sales of islands, as enacted by Acts 1971, No. 148, §§ 22-6-201 and 22-6-203;

(78) Insurance filing fees, renewal fees, amendment fees, reinstatement fees, agents' licenses, brokers' licenses, solicitors' licenses, examination fees, adjusters' licenses, copies of documents and certificates of the commissioner, all as enacted by Acts 1959, No. 148, known as the

"Arkansas Insurance Code", and all laws amendatory thereto, §§ 23-60-101 — 23-60-108, 23-60-110, 23-61-101 — 23-61-112, 23-61-201 — 23-61-206, 23-61-301 — 23-61-307, 23-61-401, 23-61-402, 23-62-101 — 23-62-108, 23-62-201, 23-62-202, former § 23-62-203, § 23-62-204, § 23-62-205, § 23-63-101 [repealed], §§ 23-63-102 — 23-63-104, 23-63-201 — 23-63-216, 23-63-301, 23-63-302, §§ 23-63-401 — 23-63-404 [repealed], §§ 23-63-601 — 23-63-604, §§ 23-63-605 — 23-63-609 [repealed], §§ 23-63-610 — 23-63-613, 23-63-701, 23-63-801 — 23-63-833, 23-63-835, 23-63-836 [as added by Acts 1983, No. 522], 23-63-837 [as added by Acts 1983, No. 522], § 23-63-838 [repealed], §§ 23-63-901 — 23-63-912, 23-63-1001 — 23-63-1004, 23-64-101 — 23-64-103, 23-64-201 — 23-64-205, § 23-64-206 [repealed], § 23-64-207, § 23-64-208 [repealed], § 23-64-209, § 23-64-210, §§ 23-64-211 — 23-64-213 [repealed], §§ 23-64-214 — 23-64-221, § 23-64-222 [repealed], §§ 23-64-223 — 23-64-227, 23-65-101 — 23-65-104, 23-65-201 — 23-65-205, 23-65-301 — 23-65-319, 23-66-201 — 23-66-213, § 23-66-214 [repealed], §§ 23-66-301 — 23-66-306, 23-66-308 — 23-66-311, 23-66-313, 23-66-314, 23-68-101 — 23-68-113, 23-68-115 — 23-68-132, 23-69-101 — 23-69-103, 23-69-105 — 23-69-141, 23-69-143, 23-69-149 — 23-69-156, 23-70-101 — 23-70-124, 23-71-101 — 23-71-116, 23-72-101 — 23-72-122, 23-73-101 — 23-73-107, § 23-73-108 [repealed], § 23-73-109 [repealed], §§ 23-73-110 — 23-73-116, former §§ 23-74-101 — 23-74-105, §§ 23-74-106 — 23-74-141 [repealed], §§ 23-75-101 — 23-75-116, § 23-75-117 [repealed], §§ 23-75-118 — 23-75-120, 23-79-101 — 23-79-106, 23-79-109 — 23-79-128, 23-79-131 — 23-79-134, 23-79-202 — 23-79-210, 23-81-101 — 23-81-117, 23-81-120 — 23-81-136, 23-81-201 — 23-81-213, 23-82-101 — 23-82-118, 23-84-101 — 23-84-111, 23-85-101 — 23-85-131, 23-86-101 — 23-86-104, 23-86-106 — 23-86-109, 23-86-112, 23-87-101 — 23-87-119, 23-88-101, 23-89-101, 23-89-102, 26-57-601 — 26-57-605, 26-57-607, 26-57-608, and 26-57-610;

(79) Trademark and service-mark registration and assignment fees, as enacted by Acts 1967, No. 81, §§ 4-71-101 — 4-71-114 [repealed];

(80) Milk laboratory antibiotic drug testing program fees and fines, § 20-59-701 et seq.;

(81) Commercial vehicle temporary registration tag fees, as enacted by Acts 1975, (Extended Sess., 1976), No. 1179, and all laws amendatory thereto, § 27-14-1306;

(82) Incorporation fees of railroads, street interurban, or other transportation companies, express companies, sleeping car companies, and private car companies, as enacted by Acts 1911, No. 87, § 23-11-102;

(83) Filing and recording fees for a charter of educational institutions and for filing and recording a certificate for a change of name or provisions of a charter, as enacted by Acts 1911, No. 375, §§ 6-2-101 — 6-2-105, § 6-2-106 [repealed], §§ 6-2-107 — 6-2-109, 6-2-111, and 6-2-112;

(84) Fees for filing articles of incorporation and issuing a certificate of incorporation of nonprofit corporations, filing an application of a



foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, and for other administrative functions, as enacted by Acts 1963, No. 176, known as the "Arkansas Nonprofit Corporation Act", §§ 4-28-201 — 4-28-206 and 4-28-209 — 4-28-223;

(85) Articles of incorporation filing fees, articles of amendment filing fees, fees for certified copies, other miscellaneous filing fees and certificates, and for receiving service of process on behalf of a corporation, both foreign and domestic, and all other fees, as enacted by Acts 1965, No. 576, known as the "Arkansas Business Corporation Act", § 4-26-101 et seq.;

(86) Fees collected as authorized under Acts 1961, No. 185, as amended, known as the "Uniform Commercial Code", § 4-1-101 et seq.;

(87) Fees collected for filing articles of incorporation for cooperative marketing associations, as enacted by Acts 1921, No. 116, as amended, known as the "Cooperative Marketing Act", § 2-2-401 et seq.;

(88) Fees collected from rural telephone cooperatives, as enacted by Acts 1951, No. 51, as amended, known as the "Rural Telecommunications Cooperative Act", § 23-17-201 et seq.;

(89) Annual license fees collected from rural electrification corporations, as enacted by Acts 1937, No. 342, as amended, known as the "Electric Cooperative Corporation Act", § 23-18-301 et seq.;

(90) Annual license fees collected from agricultural cooperative associations, as enacted by Acts 1939, No. 153, as amended, §§ 2-2-101 — 2-2-124;

(91) That portion of driver's license special fees for duplicate and identification licenses, as enacted by Acts 1977, No. 311, and all laws amendatory thereto, § 27-16-801, § 27-16-805, and § 27-16-806(a) and (b);

(92) Fees collected from mutual corporations, excepting insurance companies, having no capital stock for the filing of articles of incorporation, as enacted by Acts 1911, No. 87, § 4-26-1204;

(93) Abstracter's examining licenses and fees, as enacted by Acts 1969, No. 109, as amended, known as the "Abstracters' Licensing Law of 1969", § 17-11-101 et seq.;

(94) Driver education fees, as enacted by Acts 1965, No. 531, §§ 27-18-101, 27-18-102, and 27-18-104 — 27-18-106;

(95) Fees charged by the Veterinary Medical Examining Board for the various examinations, permits, licenses, and certificates issued by the board, as enacted by Acts 1975, No. 650, as amended, the Arkansas Veterinary Medical Practice Act, § 17-101-101 et seq.;

(96) Receipts from timber severed from state-owned lands and rentals from trespassers on state lands, as enacted by Acts 1931, No. 125, §§ 22-5-602 and 22-5-603;

(97) Annual license fees received from septic tank cleaning businesses, as enacted by Acts 1973, No. 71, §§ 17-45-101 — 17-45-105;

(98) Environmental compatibility and public need certificate initial filing fee, as enacted by Acts 1973, No. 164, and all laws amendatory thereto, §§ 23-18-501 — 23-18-529;

(99) Arkansas Motor Vehicle Commission license fees, as enacted by Acts 1975, No. 388, known as the "Arkansas Motor Vehicle Commission Act", §§ 23-112-101 — 23-112-103, 23-112-105, 23-112-201 — 23-112-205, 23-112-301 — 23-112-311, § 23-112-401 [repealed], §§ 23-112-402 — 23-112-404, § 23-112-405 [repealed], §§ 23-112-406, and 23-112-501 — 23-112-509;

(100) Arkansas Public Service Commission inspection fees as authorized by Acts 1971, No. 285, § 8, as amended, §§ 23-15-211, 23-15-214, and 23-15-216, for operating the Pipeline Safety Division;

(101) The additional severance tax levied on oil produced in this state, as enacted by Acts 1977, No. 310, § 4, and all laws amendatory thereto, § 26-58-301;

(102) Arkansas Manufactured Home Commission registration fees and salesperson's licenses, as enacted by Acts 1977, No. 419, known as the "Arkansas Manufactured Homes Standards Act", and all laws amendatory thereto, § 20-25-101 et seq.;

(103) [Repealed.]

(104) All Division of Environmental Quality fees, unless otherwise provided by law, § 8-1-105, landfill operator license fees, § 8-6-909, and that portion of new tire waste tire fees, § 8-9-404;

(105) Interstate fuel user marking fees, fines, and penalties, as enacted by Acts 1979, No. 434, §§ 26-55-708 and 26-55-709, and all laws amendatory thereto;

(106) Motor vehicle title application fees, fines, and penalties, as enacted by Acts 1949, No. 142, § 33, as amended by Acts 1979, No. 439, and Acts 1981, No. 40, and all laws amendatory thereto, § 27-14-705;

(107) Transfers from the Securities Reserve Fund of interest earned on the balance of the State Highway and Transportation Department Fund, including all internal accounts and funds thereof, as enacted by Acts 1979, No. 438, § 27-70-204, and all laws amendatory thereto;

(108) Arkansas Board of Dispensing Opticians examination, license, and registration fees, as enacted by Acts 1981, No. 589, known as the "Ophthalmic Dispensing Act", and all laws amendatory thereto, § 17-89-101 et seq.;

(109) Arkansas State Board of Nursing examination and license fees, as enacted by Acts 1971, No. 432, and all laws amendatory thereto, §§ 17-87-101 — 17-87-105, 17-87-201 — 17-87-204, 17-87-301 — 17-87-309, and 17-87-401;

(110) Social work examination and license fees, as enacted by Acts 1999, No. 1122, known as the "Social Work Licensing Act", § 17-103-101 et seq., and all laws amendatory thereto;

(111) Brine production assessments as enacted by Acts 1979, No. 937, § 3(d), as amended, § 15-76-306(d);

(112) Amusement attraction permits, as enacted by Acts 1983, No. 837, known as the "Amusement Ride and Amusement Attraction Safety Insurance Act", § 23-89-501 et seq.;

(113) Arkansas Beef Council cattle assessments, § 2-35-401 et seq.;

(114) [Repealed.]



(115) Hazardous and toxic materials facility fees, § 12-84-106;

(116) The additional severance tax levied on coal, as enacted by Acts 1983, No. 560, § 26-58-112;

(117) The additional severance tax levied on stone and crushed stone, as enacted by Acts 1983, No. 761, § 26-58-113, and those portions of real estate transfer taxes, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-105 and 26-60-112;

(118) Five percent (5%) of the gross proceeds collected through set-off procedures from debtors who owe money to the State of Arkansas, as enacted by Acts 1983, No. 372, §§ 26-36-301 — 26-36-320;

(119) The first designated portion of real estate transfer taxes for the continuing education of county and circuit clerks, as enacted by Acts 1971, No. 275, and all laws amendatory thereto, §§ 26-60-105 and 26-60-112;

(120) That portion of driver's license reinstatement fees for the Office of Driver Services, § 5-65-119(a)(2)(B);

(121) [Repealed.]

(122) Agricultural consultant license fees, the Agricultural Consultants Licensing Act of 1987, § 17-13-101 et seq.;

(123) [Repealed.]

(124) Three percent (3%) of local sales and use taxes, which are further identified as the three percent (3%) collection cost of the local sales and use taxes, imposed by a city under § 26-75-217, a county under § 26-74-214, and a city or county under § 26-82-111;

(125) [Repealed.]

(126) Those portions of vaccination fees imposed at livestock markets, as enacted by Acts 1985, No. 150, and Acts 1985, No. 151, § 2-40-206, and that portion of all fines and penalties resulting from arrests made or citations issued by Arkansas Livestock and Poultry Commission enforcement officers, § 2-33-113(b) [repealed];

(127) Arkansas Wheat Promotion Board assessments, as enacted by Acts 1985, No. 283, §§ 2-20-601 — 2-20-609;

(128) [Repealed.]

(129) Local exchange carriers access line surcharges and commercial mobile radio service provider telephone number surcharges, § 23-17-119;

(130) Asbestos removal license fees, §§ 20-27-1001 — 20-27-1007;

(131) Mammography accreditation fees, § 20-15-1005;

(132) Abortion clinic license fees, § 20-9-302;

(133) Child care facility license fees, § 20-78-223;

(134) [Repealed.]

(135) Dog racing taxes derived from the net proceeds of two (2) of the additional six (6) days of dog races, as authorized by § 23-111-504;

(136) Emergency medical services fees, § 20-13-211;

(137) Food service establishment and food salvager permits and fees, §§ 20-57-102, 20-57-201, § 20-57-202 [repealed], § 20-57-203, and § 20-57-204;

(138) Nursing home administrator license application and renewal fees, §§ 20-10-404 and 20-10-405;

- (139) [Repealed.]
- (140) Health maintenance organizations licenses and fees, § 23-76-127;
- (141) Ionizing radiation license and registration fees, § 20-21-217;
- (142) Public Water System Service Act fees, fines, and penalties, § 20-28-101 et seq.;
- (143) Swimming pools regulation fees and fines, §§ 20-30-102 and 20-30-106;
- (144) Department of Health public health laboratory fees, § 20-7-114;
- (145) Additional real estate transfer tax, § 26-60-105(b);
- (146) Two percent (2%) of gross receipts derived from the sale or rental on certain items related to tourism, § 26-63-402;
- (147) Breath testing instrument maintenance fees, § 20-7-128;
- (148) That portion of commercial driver license application fees, § 27-23-118(a)(1); driver search fees, § 27-23-118(b)(1) and § 27-23-118(c)(1); and all fines, forfeitures, and penalties collected under § 27-23-118(d) of the Arkansas Uniform Commercial Driver License Act, § 27-23-101 et seq.;
- (149) That portion of commercial driver license application fees, § 27-23-118(a)(2);
- (150) Commercial driver license examination fees, § 27-23-110(d);
- (151) Arkansas Catfish Promotion Board assessments, § 2-9-107;
- (152) Turnpike project tolls, §§ 27-90-203 and 27-90-204;
- (153) Regulated substance storage tank license fees and that portion of annual registration fees, § 8-7-802(b); civil penalties collected under § 8-7-806; and that portion of costs collected under § 8-7-807;
- (154) Landfill disposal and transportation fees, § 8-6-606;
- (155) That portion of driver's license reinstatement fees for the Office of Alcohol Testing, § 5-65-119(a)(2)(A), § 5-65-304(d), and § 5-65-310(f);
- (156) Medicaid Fraud False Claims Act penalties, § 20-77-903;
- (157) Child care facility fines and penalties, § 20-78-219;
- (158) Fees for certifying blasters, § 20-27-1102;
- (159) Pseudorabies control and eradication program fees, § 2-40-1201;
- (160) HVACR Licensing Board fees, § 17-33-204;
- (161) [Repealed.]
- (162) That portion of landfill disposal fees collected when a private industry bears the expense of operating and maintaining the landfill solely for the disposal of wastes generated by the industry, § 8-6-607(b)(2);
- (163) Those additional corporate income taxes as specified in § 26-51-205(c)(2);
- (164) Those additional insurance premium taxes as specified in § 26-57-614 and the amount of insurance premium taxes transferred due to the provisions of §§ 24-11-301 and 24-11-809;
- (165) That portion of rim removal fees and import fees, § 8-9-404;
- (166) Commercial medical waste fees and fines, § 20-32-104;



(167) Additional landfill disposal and transportation fees, § 8-6-1003 et seq.;

(168) That portion of annual registration fees for above-ground storage tanks, § 8-7-802(b);

(169) Fees received by the State Plant Board for licensing and regulation of public grain warehouses;

(170) Elder or disabled persons enhanced civil penalties, § 4-88-202;

(171) That portion of estate taxes collected in a calendar year that exceeds ten percent (10%) of the average annual estate taxes collected for a five-year period immediately preceding the calendar year or fifteen million dollars (\$15,000,000), whichever is greater, § 26-59-122(a);

(172)(A) The additional fees assessed or imposed upon insurers, insurance agents, brokers, professional bail bond companies, and other licensees or registrants, § 23-61-711;

(B) The additional professional bail bond company fees, § 17-19-111;

(C) Health maintenance organization fees, § 23-76-127;

(D) Professional employer organization biennial license fees, § 23-92-407; and

(E) Employer service assurance organization affidavit fees, § 23-92-414;

(173) That portion of securities agents initial or renewal registration filing fees, § 23-42-304(a)(2) and § 23-42-304(a)(4);

(174) That portion of securities registration statement filing fees, § 23-42-404(b)(1);

(175) Background investigation fees, § 12-8-120;

(176) Criminal history information record search fees for noncriminal justice purposes, § 12-12-1012;

(177) Alcohol and drug abuse treatment program application fees and accreditation costs, § 20-64-906;

(178) Marine Sanitation Program fees, § 27-101-408;

(179) [Repealed.]

(180) Arkansas Conservation Corps fee-for-service project fees, § 11-13-105(c) [repealed];

(181) Transfers from general revenues for financial incentive plans and incentive agreements under § 15-4-1607, § 26-51-506(c)(2)(B)(vii), § 26-51-506(c)(3)(D)(vi), and § 26-51-2704(c)(7)(A);

(182) Alternative fuels taxes, fees, penalties, and interest, as enacted in § 26-62-101 et seq., known as the "Alternative Fuels Tax Law", and all laws amendatory thereto;

(183) Dog racing taxes derived from seventy-five percent (75%) of the net proceeds of six (6) additional days of dog races during each twelve-month period, § 23-111-515;

(184) Transporters of commercial medical waste vehicle inspection fees, § 20-32-105;

(185) Motor vehicle accident report and records of traffic violations photostatic or written copies fees, § 27-53-210;

(186) Motor vehicle liability insurance fines, § 27-22-103;

- (187) Rail and other carriers fees, § 23-16-105;
- (188) Life care provider application filing fees, § 23-93-206;
- (189) Additional marriage license fees, § 9-30-109;
- (190) Used motor vehicle dealer license fees, § 23-112-608, and that portion of used motor vehicle dealer fines, § 23-112-603(c)(1);
- (191) Criminal Investigation Division antifraud assessments and penalties, §§ 23-100-104 and 23-100-105;
- (192) Seventy-one percent (71%) of the additional cigarette and tobacco products tax, § 26-57-1101 et seq., as determined by § 26-57-1106;
- (193) One-eighth of one cent ( $\frac{1}{8}\text{¢}$ ) gross receipts and compensating taxes, Arkansas Constitution, Amendment 75;
- (194) Waterworks operators fees, § 17-51-106;
- (195) Equine Infectious Anemia Control and Eradication Program fees, § 2-40-826;
- (196) Arkansas Corn and Grain Sorghum Promotion Board assessments, § 2-20-805;
- (197) State Convicted Offender DNA Data Base Act fines, § 12-12-1118;
- (198) Sex Offender Registration Act of 1997 fines, § 12-12-910;
- (199) [Repealed.]
- (200) Thirty percent (30%) of parking fines and fees, § 27-15-305(c);
- (201) Twenty-nine percent (29%) of the additional cigarette and tobacco products tax, § 26-57-1103;
- (202) [Repealed.]
- (203) Littering fines, § 8-6-404;
- (204) Fees from investigations and inspections of various boards' licensees, § 17-80-106;
- (205) Body piercing, branding, and tattooing license fees and penalties, § 20-27-1503 [repealed];
- (206) [Repealed.]
- (207) [Repealed.]
- (208) [Repealed.]
- (209) [Repealed.]
- (210) Various Department of Health vital statistic fees, § 19-6-485(b);
- (211) [Repealed.]
- (212) Revenue-generating technology system contract taxes and fees, § 19-11-1101(d);
- (213) The first one hundred fifty thousand dollars (\$150,000) of fines collected under § 23-42-209, § 23-42-213(b), and § 23-42-308;
- (214) The transfer of up to thirty-one and six-tenths percent (31.6%) of amounts received in the Tobacco Settlement Program Fund, Acts 2002 (1st Ex. Sess.), No. 2, § 19-12-108;
- (215) Arkansas Biological Agent Registry Act civil penalties, § 19-6-487 [repealed] and § 20-36-104;
- (216) Drug court program user fees, § 16-98-304, and specialty court program user fees, § 16-10-701;



- (217) Additional marriage license fees, § 16-20-407(b)(2);
- (218) That portion of an operator's driver's license reinstatement fees, § 5-65-119(a)(2)(D);
- (219) That portion of suspended, revoked, or cancelled driver's license reinstatement fees, § 27-16-508(c) and § 27-16-808(b)(2);
- (220) That portion of driver license special fees for duplicate and identification licenses, § 27-16-805 and § 27-16-806(c);
- (221) Civil penalties and fines collected under the Arkansas Catfish Marketing Act of 1975, § 20-61-201 et seq., and § 20-61-101;
- (222) That portion of penalties collected for failure to pay fees for registration and licensing of motor vehicles, § 27-14-601(e);
- (223) Design-use contribution fees, § 27-15-4904;
- (224) Mixed drink supplemental taxes on sales of alcoholic beverages, § 3-9-213(c)(2)(A) and § 3-9-223(c)(2)(A);
- (225) Arkansas Bureau of Standards lab tests or inspection fees, § 4-18-329(c);
- (226) Auto auction fees for salvage-titled or parts-only titled vehicles, § 23-112-614;
- (227) Vehicle identification number verification fees, § 27-14-725(d);
- (228) Spyware monitoring fines and penalties, § 4-111-104;
- (229) That portion of uniform filing fees collected in circuit court under § 16-10-314 and § 21-6-403(b)(1);
- (230) Forfeited bonds; fee assessments; reimbursements for well-site plugging, repair, and restoration costs from well operators; and proceeds from the sale of hydrocarbons and production equipment located at the site of abandoned and orphaned wells, § 15-71-110(e) and § 15-71-116;
- (231) County quorum court special license plate application fees, § 27-24-303(b)(2);
- (232) Fees for diagnostic laboratory services of the Division of Agriculture of the University of Arkansas, § 6-64-1013;
- (233) That portion of uniform filing fees collected in circuit court under § 16-10-313 and § 21-6-403(b)(1);
- (234) Commercial motor vehicle driving offenses fines and penalties, § 27-23-114(h)(2);
- (235) Criminal History for Volunteers Act fees, § 12-12-1609;
- (236) Adult and Long-Term Care Facility Resident Maltreatment Act civil penalties, § 12-12-1706;
- (237) Phase I Environmental Site Assessment Consultant Act fees, §§ 8-7-1301 — 8-7-1304, §§ 8-7-1305 — 8-7-1310 [repealed], and § 8-7-1311;
- (238) Ninety-five percent (95%) of the severance tax collected on natural gas at the rates enacted by § 26-58-111(5) and five percent (5%) of the severance tax collected on natural gas under § 26-58-124(c)(2);
- (239) Unified Carrier Registration Act of 2005, Pub. L. No. 109-59, § 4301 et seq., registration fees, § 23-13-604;
- (240) Landfill disposal fees to support a computer and electronic recycling program, §§ 8-6-612 [repealed] and 8-6-614 [repealed];

(241) Commercial Driver Alcohol and Drug Testing Database penalties, § 27-23-209;

(242) School-Age Children Eye and Vision Care Fund donations, grants of money, gifts and appropriations from private sources, from municipal and county governments, from the state, and from the federal government, as created in uncodified § 1 of Acts 2007, No. 138;

(243) Arkansas retirement community eligibility application fees, § 15-14-104;

(244) Annual fleet management fees, § 27-14-610(e)(2);

(245) Securities agents branch office registration filing fees, § 23-42-304(a)(5);

(246) The first designated portion of real estate transfer taxes for the continuing education of county coroners under §§ 26-60-105 and 26-60-112;

(247) Registration for nonprofit motor vehicle fleets management fees, § 27-14-611(d)(1);

(248) Suspended registration reinstatement fees, § 27-22-103(b)(4)(B)(i);

(249) Certificate of franchise authority fees, § 23-19-204;

(250) That portion of fees and fines collected under § 20-27-1502 [repealed], § 20-27-1508 [repealed], § 20-27-1509 [repealed], and § 20-27-1511 [repealed];

(251) That portion of license fees, renewal fees, and civil penalties collected under § 17-55-101 et seq.;

(252) Voice stress analysis examiner's license fees, § 17-39-305;

(253) Fees collected under § 12-12-1510(c);

(254) All permit and license fees received by Arkansas Tobacco Control under the Arkansas Tobacco Products Tax Act of 1977, § 26-57-201 et seq.;

(255) Fees collected under § 27-14-602(c);

(256) Driving monitoring program fees, § 27-50-912(f)(2);

(257) Permit fees paid under the Arkansas Industrial Hemp Production Act, § 2-15-501 et seq.;

(258) All sales tax revenues collected by the Department of Finance and Administration from the sale of usable marijuana under the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98;

(259) That portion of notice filing fees and penalties, § 23-42-509(a);

(260) Revenues collected under § 9-15-202(d);

(261) Revenues collected under § 16-10-305(h);

(262) Grocery store wine permit fees, § 3-5-1802;

(263) The wholesale sales tax on motor fuel levied under § 26-64-101;

(264) The wholesale sales tax on distillate special fuel levied under § 26-64-102;

(265) **[Effective until January 1, 2022.]** Additional registration fees for electric vehicles and hybrid vehicles under § 27-14-614;



(265) [Effective January 1, 2022.] Additional registration fees for electric vehicles, hybrid vehicles, and plug-in hybrid electric vehicles under § 27-14-614;

(266) Motorboat duplicate title, lien filing, lien notation, and certificate of title fees set forth in the Arkansas Motorboat Registration and Titling Act, § 27-101-1001 et seq.;

(267) Motorboat certificate of title with beneficiary processing fees and certificate of title application fees set forth in the Arkansas Motorboat Registration and Titling Act, § 27-101-1001 et seq.;

(268) Ten percent (10%) of each booking and administration fee collected under § 12-41-505;

(269) Expedited title processing fees collected under § 27-14-705(e)(2);

(270) Driving record information fees collected under § 27-23-117;

(271) Civil penalties collected under § 25-38-203;

(272) Fines collected under § 2-38-504; and

(273) Fees collected under § 20-7-140.

**History.** Acts 1973, No. 808, § 8; 1975, No. 863, § 5; 1979, No. 1027, §§ 2, 10; 1983, No. 222, §§ 3, 4; 1983, No. 801, § 1; 1985, No. 65, §§ 3, 4; 1985, No. 613, § 1; 1985, No. 888, § 13; A.S.A. 1947, § 13-503.7; Acts 1987, No. 792, §§ 2, 3; 1989, No. 551, §§ 2, 3; 1989, No. 821, § 6; 1991, No. 76, §§ 1, 2; 1991, No. 765, § 5; 1993, No. 324, § 2; 1993, No. 1072, §§ 3, 4; 1993, No. 1073, § 29; 1995, No. 270, §§ 2, 3; 1995, No. 369, § 2; 1997, No. 156, § 2; 1997, No. 298, §§ 2, 13; 1997, No. 974, § 18; 1997, No. 1071, § 2; 1999, No. 15, § 4; 1999, No. 282, §§ 3, 4, 14; 1999, No. 1122, § 3; 1999, No. 1164, § 168; 2001, No. 229, §§ 5-7; 2003, No. 28, §§ 7-16; 2003, No. 1750, § 6; 2005, No. 20, §§ 2-7; 2007, No. 182, § 20; 2007, No. 407, §§ 2-6; 2007, No. 873, §§ 5, 6; 2008 (1st Ex. Sess.), No. 4, §§ 4, 5; 2008 (1st Ex. Sess.), No. 5, §§ 4, 5; 2009, No. 610, § 6; 2009, No. 1464, §§ 2-4; 2011, No. 173, § 1; 2011, No. 265, § 4; 2011, No. 828, § 8; 2011, No. 1008, §§ 2-5; 2011, No. 1058, § 2; 2013, No. 551, § 6; 2013, No. 1393, § 3; 2013, No. 1433, § 12; 2014, No. 290, § 7; 2014, No. 299, § 7; 2015, No. 299, §§ 27-29; 2015, No. 393, § 95; 2015, No. 536, § 2; 2015, No. 856, §§ 3-6; 2015, No. 862, § 3; 2015, No. 895, § 44; 2015, No. 1046, § 4; 2015, No. 1185, § 8; 2015, No. 1235, § 28; 2015, No. 1264, § 9; 2016 (3rd Ex. Sess.), No. 1, § 12; 2017, No. 317, § 4; 2017, No. 508, § 9; 2017, No. 532, § 2; 2017, No. 555, § 6; 2017, No. 583, § 5; 2017, No. 668, §§ 1, 2; 2017, No. 670, § 2; 2017, No.

720, § 6; 2017, No. 913, § 51; 2017, No. 977, § 4; 2017, No. 981, § 2; 2017, No. 1019, § 1; 2017, No. 1046, § 4; 2017, No. 1051, § 3; 2019, No. 372, § 3; 2019, No. 416, § 4; 2019, No. 524, § 1; 2019, No. 586, § 1; 2019, No. 705, § 4; 2019, No. 733, § 4; 2019, No. 741, § 3; 2019, No. 910, §§ 988-990; 2019, No. 991, § 5; 2021, No. 225, § 2; 2021, No. 376, § 1; 2021, No. 437, § 4; 2021, No. 557, § 13; 2021, No. 565, § 3; 2021, No. 594, § 3.

**A.C.R.C. Notes.** Acts 2017, No. 317, § 5, provided:

“(a) All moneys in the Waste Tire Grant Fund at 11:59 p.m. on the day before the effective date of this act shall be transferred to the Used Tire Recycling Fund at 12:00 a.m. on the effective date of this act [August 1, 2017].

“(b)(1) After the effective date of this act [August 1, 2017] and until 11:59 p.m. on December 31, 2017, the following fees under § 8-9-404 as it existed on January 1, 2017, shall continue to be imposed and collected in the same manner, at the same rate, using the definitions under § 8-9-402, and as otherwise provided under Title 8, Chapter 9, Subchapter 4, as the law existed on January 1, 2017:

“(A) Fees imposed upon the sale of each new automobile tire and truck tire sold at retail; and

“(B) In addition to the fee imposed on new tires, the fee imposed on all waste automobile and truck tires imported into Arkansas.

“(2) The fees imposed and collected under subdivision (b)(1) of this section shall be deposited into the Used Tire Recycling Fund.

“(c) After the effective date of this act [August 1, 2017], the waste tire management grant distribution program under Title 8, Chapter 9, Subchapter 4, and Arkansas Pollution Control and Ecology Commission Regulation No. 14 that existed on January 1, 2017, and is administered by the Arkansas Department of Environmental Quality shall:

“(1) Continue until the final quarterly disbursements for the last calendar year quarter of 2017 are processed; and

“(2) Be funded based on the moneys allocated and available at the end of each calendar quarter from the Used Tire Recycling Fund under § 19-5-1147(c)(1) [§ 19-5-1148(c)(1)] using the distribution formula in effect on January 1, 2017, until the final quarterly distribution is made based on moneys allocated and available in the Used Tire Recycling Fund under § 19-5-1147(c)(1) [§ 19-5-1148(c)(1)] on December 31, 2017.

“(d) After the effective date of this act [August 1, 2017] and until June 30, 2018, the moneys allocated and available at the end of each calendar quarter from the Used Tire Recycling Fund under § 19-5-1147(c)(2) [§ 19-5-1148(c)(2)] may also be used at the discretion of the Arkansas Department of Environmental Quality:

“(1) To fund the waste tire support grant program that existed before the effective date of this act [August 1, 2017]; and

“(2) For used tire program transitional funding.

“(e)(1) The first reimbursements to used tire programs under the Used Tire Recycling and Accountability Act, § 8-9-401 et seq., shall be from the moneys allocated and available from the Used Tire Recycling Fund under § 19-5-1147(c)(1) [§ 19-5-1148(c)(1)] for reimbursement requests for processing used tires in compliance with this act from January 1, 2018, through March 31, 2018.

“(2) All subsequent reimbursements to used tire programs under the Used Tire Recycling and Accountability Act, § 8-9-401 et seq., shall be on a calendar quarterly basis for reimbursement for the processing of used tires in compliance with

the Used Tire Recycling and Accountability Act.

“(f) Permits and licenses issued or renewed on and after January 1, 2018, to a person or entity that collects, stores, transports, processes, recycles, or disposes of used tires regulated under this subchapter shall be issued under the Used Tire Recycling and Accountability Act, § 8-9-401 et seq., and applicable regulations promulgated by the Arkansas Pollution Control and Ecology Commission.”

Acts 2017, No. 532, § 1, provided: “Legislative findings. The General Assembly finds that:

“(1) The Department of Finance and Administration currently lacks clear authority and specific funding sources to adequately upgrade and modernize the registration process for commercial motor vehicles;

“(2) Due to current inefficiencies or technological limitations, commercial motor carriers that would otherwise register their commercial vehicles in the State of Arkansas are deterred from doing so;

“(3) The department should develop and implement rules, regulations, and procedures to facilitate an online system for administrative transactions and the registration of commercial motor vehicles that are registered with the International Registration Plan;

“(4) The law needs to be clarified to verify that license plates for commercial motor vehicles registered with the International Registration Plan should not be required to display an annual decal or tab;

“(5) An enhancement creating an online system for administrative transactions and registration of commercial motor vehicles will facilitate and improve the services available to the commercial motor carrier industry;

“(6) Enhancements to the Arkansas Motor Carrier System will make available to the state additional revenues through a user-fee based system to finance the enhancements without requiring a general tax increase; and

“(7) Directing the department to develop rules, regulations, and procedures to implement the necessary enhancements and providing a funding mechanism to help offset the costs associated with the system enhancements will accomplish the state’s goal of improving services and



modernizing the Arkansas Motor Carrier System.”

Acts 2017, No. 1046, § 1, provided: “Legislative findings. The General Assembly finds that:

“(1) Arkansas is one (1) of the leading producers of steel in the United States, and Mississippi County, Arkansas, is ranked as one (1) of the top two (2) highest steel-producing counties in the United States;

“(2) The steel industry in the United States is highly competitive, and there are presently rising prices and a high level of demand for raw materials in the domestic market;

“(3) The current national political and economic climate lends itself to an influx in the reshoring of well-paying manufacturing jobs, and Arkansas has an unprecedented opportunity to utilize existing incentive programs that are intended to encourage investment in this state to capitalize on this trend;

“(4) When considering where to place new American manufacturing jobs, companies will consider the availability of incentives and credits; and

“(5) In order to continue to attract well-paying manufacturing jobs to the State of Arkansas and encourage continuing capital investment by steel producers in this state, adjustments in the recycling tax credit are appropriate to allow the tax credit to be utilized more fully to accomplish the purposes for which the tax credit is intended.”

Acts 2019, No. 416, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that additional revenue will be available to the state resulting from anticipated savings generated by the transformation of state government, the creation of cabinet positions, and other reductions in state government, and from the growth of casino gambling resulting from the adoption of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100.

“(b) The General Assembly intends to use a portion of the anticipated savings described in subsection (a) of this section to make additional revenues available for use in maintaining and repairing public highways, streets, and bridges in the state.”

Acts 2019 No. 741, § 1, provided: “Legislative intent. It is the intent of the General Assembly to protect consumers from misleading and false labeling of agricultural products that are edible by humans by initiating this act.”

Acts 2021, No. 594, § 1, provided: “Title. This act shall be known and may be cited as the Logging and Wood Fiber Transportation Job Creation Incentive Act.”

Acts 2021, No. 594, § 2, provided: “Legislative findings. The General Assembly finds that:

“(1) Arkansas is a timber-rich state with over one-half (½) of the total area of the state, or nineteen million (19,000,000) acres, as forestland;

“(2) In the southern United States, Arkansas ranks first for the number of hardwood seedlings grown and fourth for the number of total seedlings grown;

“(3) Approximately one (1) in every eight (8) Arkansans, equating to about three hundred forty-five thousand (345,000) Arkansans, own forestland;

“(4) The forest products industry in Arkansas provides more than twenty-eight thousand (28,000) jobs, largely in rural areas;

“(5) Though the state is rich in timber, the growth of the Arkansas pine forest currently exceeds harvest by eleven million (11,000,000) tons per year;

“(6) The unharvested Arkansas timber causes innumerable potential jobs to be unfulfilled and the loss of state and local tax revenue and other economic revenue; and

“(7) In order to attract industry to use the available fiber resources, support healthy timberland, encourage capital investment in the Arkansas timber industry, and provide well-paying jobs, the creation of a logging and wood fiber transportation job creation income tax credit should be established.”

**Amendments.** The 2017 amendment by No. 317 substituted “That portion of rim removal fees and import fees” for “Imported waste tire fees and that portion of new tire waste tire fees” in (165).

The 2017 amendment by No. 508 added (262).

The 2017 amendment by No. 532 added (255).

The 2017 amendment by No. 555 deleted “average daily” preceding “balance” in (107).

The 2017 amendment by No. 583 added (260) and (261).

The 2017 amendment by No. 668 repealed (211) and added (259).

The 2017 amendment by No. 670 added (258).

The 2017 amendment by No. 720 repealed (123).

The 2017 amendment by No. 913, in (13), substituted "Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services" for "Division of Behavioral Health Services" and inserted "of the Department of Human Services" following "Division of Developmental Disabilities Services".

The 2017 amendment by No. 977 substituted "2019" for "2017" in (62).

The 2017 amendment by No. 981 added (257).

The 2017 amendment by No. 1019, in (238), deleted "the remainder of the" preceding "five percent (5%)" and substituted "§ 26-58-124(c)(2)" for "§ 26-58-124(c)(1)(B)".

The 2017 amendment by No. 1046 added "and § 26-51-506(c)(3)(D)(vi)" in (181).

The 2017 amendment by No. 1051 added (256).

The 2019 amendment by No. 372 added (268).

The 2019 amendment by No. 416 added (263) through (265).

The 2019 amendment by No. 524 added (269).

The 2019 amendment by No. 586 added (270).

The 2019 amendment by No. 705 substituted "July 1, 2021" for "July 1, 2019" in (62).

The 2019 amendment by No. 733 added (266) and (267).

The 2019 amendment by No. 741 added (271).

The 2019 amendment by No. 910 substituted "Division of Community Correction" for "Department of Community Correction" in (31); substituted "Division of Correction" for "Department of Correction" in (42) and (43); and substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in (104).

The 2019 amendment by No. 991 added (272).

The 2021 amendment by No. 225 added (273).

The 2021 amendment by No. 376 inserted "and plug-in hybrid electric vehicles" in (265).

The 2021 amendment by No. 437 substituted "July 1, 2023" for "July 1, 2021" in (62).

The 2021 amendment by No. 557 deleted "and vendor's licenses" following "registration fees" in (47).

The 2021 amendment by No. 565 inserted "Production" and substituted "§ 2-15-501 et seq." for "§ 2-15-401 et seq." in (257).

The 2021 amendment by No. 594, in (181), deleted "Arkansas Economic Development Incentive Act of 1993" from the beginning, inserted "and incentive agreements under", and added "and § 26-51-2704(c)(7)(A)".

**Effective Dates.** Acts 2017, No. 508, § 13(a): Oct. 1, 2017. Effective date clause provided: "Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, and 12 of this act become effective on October 1, 2017."

Acts 2019, No. 416, § 8: Oct. 1, 2019. Effective date clause provided: "Sections 4-7 of this act are effective on the first day of the calendar quarter following the effective date of this act."

Acts 2021, No. 376, § 3: Jan. 1, 2022.

Acts 2021, No. 594, § 5: effective for tax years beginning on or after Jan. 1, 2021.

## SUBCHAPTER 4 — SPECIAL REVENUE FUNDS

### SECTION.

19-6-402. Division of Aeronautics Fund.

19-6-403. Division of Correction Farm Fund.

19-6-404. Division of Arkansas State Police Fund.

19-6-405. State Highway and Transportation Department Fund.

### SECTION.

19-6-423. Division of Correction Prison Industry Fund.

19-6-426. Arkansas Museum of Natural Resources Fund.

19-6-434. Hazardous Waste Permit Fund.

19-6-452. Asbestos Control Fund.

19-6-459. Commercial Driver License Fund.



## SECTION.

19-6-461. [Repealed.]

19-6-462. Private Career Education Fund.

19-6-471. Marketing Recyclables Program Fund.

19-6-475. Securities Department Fund.

19-6-480. Livestock and Poultry Special

## SECTION.

Revenue Fund.

19-6-484. Conservation Tax Fund.

19-6-485. Health Department Technology Fund.

19-6-486. Long Term Reserve Fund.

19-6-487. [Repealed.]

19-6-488. One Percent to Prevent Fund.

**Effective Dates.** Acts 2017, No. 532, § 10: Mar. 20, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the present system for registering commercial motor vehicles is inconvenient, expensive, unduly time-consuming, and lacks the software capabilities offered by comparable systems in other states to facilitate the registration process electronically. In order to make the Arkansas Motor Carrier System operational on or before January 1, 2018 as required by this act, the Department of Finance and Administration must be authorized to immediately commence planning, programming, and promulgating the necessary rules, regulations, and procedures pertaining to the necessary system enhancements. These enhancements are estimated to take more than six (6) months to complete. Moreover, due to the lack of clarity in current law, commercial motor carriers currently face potential unwarranted liability for acts or omissions involving license plates and registrations. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2017, No. 565, § 29: Mar. 22, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act will create more efficient regulation of private career education; and that this act is immediately necessary to provide Arkansas

citizens seeking private career education the consumer protection services they need. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2017, No. 897, § 21: July 1, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that it would be prudent to abolish the State Child Abuse and Neglect Prevention Board and transfer the powers and duties of the State Child Abuse and Neglect Prevention Board to the Department of Human Services; that this act facilitates the timely transfer of the State Child Abuse and Neglect Prevention Board to the Department of Human Services; and that this act is necessary for alignment with the fiscal year. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2017."

Acts 2017, No. 1051, § 8: July 1, 2017. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law in 1973 that have changed or created various revenues collected by the state, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees, and other revenues levied and collected for the sup-

port of and use by state government as they currently exist and from which appropriations that become effective July 1, 2017, have been made by the Ninety-First General Assembly. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2017.”

Acts 2017 (1st Ex. Sess.), No. 7, § 5: May 4, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the State of Arkansas does not have a dedicated source of budget reserves; that providing funding for the Long Term Reserve Fund could improve the credit rating of the State of Arkansas and increase the fiscal strength and stability of the state; and that this act is immediately necessary because the transfer of the balance of the Arkansas Healthy Century Trust Fund to other state purposes would improve the state’s credit rating and save the state a significant amount of money that could then be used for other important state purposes. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by

the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2019, No. 416, § 8: Oct. 1, 2019. Effective date clause provided: “Sections 4-7 of this act are effective on the first day of the calendar quarter following the effective date of this act.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

## 19-6-402. Division of Aeronautics Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Division of Aeronautics Fund”.

(b) The fund shall consist of those special revenues as specified in § 19-6-301(17).

(c) The fund shall be used by the Division of Aeronautics for:

(1) Distributing grants-in-aid to qualifying airports of the state as authorized by law;

(2) Distributing grants to qualifying applicants as determined by the Director of the Division of Aeronautics and the Aeronautics Commission for any purpose related to:

(A) The development of aeronautics;

(B) The promotion of aeronautics; or

(C) Aviation education;



(3) The maintenance, operation, and improvement required in carrying out the functions, powers, and duties set out in § 27-114-101 et seq.; or

(4) Carrying out other duties imposed by law upon the division, including without limitation the duties set out in § 27-115-110.

**History.** Acts 1973, No. 808, § 14; 1979, No. 1027, § 6; 1981, No. 938, § 15; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13; Acts 2019, No. 152, § 1; 2019, No. 910, § 493.

The 2019 amendment by No. 910 substituted "Division of Aeronautics" for "Arkansas Department of Aeronautics" throughout the section; and substituted "division" for "department".

**Amendments.** The 2019 amendment by No. 152 rewrote the section.

### 19-6-403. Division of Correction Farm Fund.

The Division of Correction Farm Fund shall consist of those revenues as specified in § 19-6-301(42), there to be used for the maintenance, operation, and improvement of the Division of Correction's farming operations. Any surplus accruing in the fund, upon determination of that surplus, shall be transferred to the Division of Correction Inmate Care and Custody Fund Account.

**History.** Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13; Acts 2019, No. 910, § 991.

**Amendments.** The 2019 amendment substituted "Division of Correction Farm Fund" for "Department of Correction Farm Fund" in the section heading and in the first sentence; substituted "Division of

Correction's" for "Department of Correction's" in the first sentence; and substituted "Division of Correction Inmate Care and Custody Fund Account" for "Department of Correction Inmate Care and Custody Fund Account" in the second sentence.

### 19-6-404. Division of Arkansas State Police Fund.

The Division of Arkansas State Police Fund shall consist of:

(1) Those special revenues as specified in § 19-6-301(1), (5), (7), (8), (38)-(40), (94), (150), (168), (175), (184)-(186), (190), (218)-(220), (222), (226), (227), (234), (252), and (270);

(2) Moneys transferred or deposited from the State Administration of Justice Fund;

(3) Those general revenues as may be provided by law, there to be used for the maintenance, operation, and improvement of the Division of Arkansas State Police in carrying out the functions, powers, and duties as stated in § 12-8-106 or other duties imposed by law upon the division;

(4) Any revenues credited to the Division of Arkansas State Police Fund under the Division of Arkansas State Police Headquarters Facilities and Equipment Financing Act, § 12-8-601 et seq.; and

(5) Federal reimbursements received for eligible expenditures by the various programs of the division made payable from the Division of Arkansas State Police Fund.

**History.** Acts 1973, No. 808, § 14; 2019, No. 910, § 6003.

1981, No. 938, § 17; 1983, No. 222, § 5; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1987, No. 792, § 4; 1991, No. 76, § 3; 1993, No. 1072, § 5; 1995, No. 270, § 4; 1997, No. 298, § 3; 1999, No. 282, § 5; 2003, No. 28, § 17; 2005, No. 20, § 8; 2007, No. 407, § 7; 2014, No. 290, § 8; 2014, No. 299, § 8; 2015, No. 856, § 7; 2015, No. 1207, § 2; 2019, No. 586, § 2;

**Amendments.** The 2019 amendment by No. 586 substituted “(234), (252), and (270)” for “(234), and (252)” in (1).

The 2019 amendment by No. 910 substituted “Division of Arkansas State Police” for “Department of Arkansas State Police” in the section heading and throughout the section; and substituted “division” for “department” in (5).

## 19-6-405. State Highway and Transportation Department Fund.

The State Highway and Transportation Department Fund shall consist of:

(1) That part of the special revenues as specified in § 19-6-301(2)-(4), (22), (81), (105)-(107), (182), and (256), known as “highway revenue”, as distributed under the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq., and § 27-70-103 and § 27-72-301 et seq.;

(2) Those special revenues specified in § 19-6-301(10), (152), (187), (239), and (241);

(3) Fifty percent (50%) of § 19-6-301(26);

(4) That portion of § 19-6-301(2) as set out in § 27-14-601(a)(3)(H)(ii)(f);

(5) That portion of § 19-6-301(222);

(6) Those designated revenues as set out in § 26-56-201(e)(1), which consist of the additional total of four cents (4¢) distillate special fuel taxes to be distributed as provided in the Arkansas Highway Financing Act of 1999, § 27-64-201 et seq.;

(7) Federal revenue sharing funds as set out in § 19-5-1005;

(8) The special revenues specified in § 26-64-103, which consist of the wholesale sales taxes on motor fuel and distillate special fuel;

(9) The special revenues specified in § 27-14-614, which consist of the additional registration fees on electric vehicles and hybrid vehicles; and

(10) Any federal funds that may become available,

there to be used for the maintenance, operation, and improvement required by the Arkansas Department of Transportation in carrying out the functions, powers, and duties as set out in Arkansas Constitution, Amendment 42, and §§ 27-65-102 — 27-65-107, 27-65-110, 27-65-122, and 27-65-124, and the other laws of this state prescribing the powers and duties of the department and the State Highway Commission.

**History.** Acts 1973, No. 808, § 14; 1979, No. 1027, § 8; 1985, No. 65, § 6; A.S.A. 1947, § 13-503.13; Acts 1987, No. 792, § 4; 1991, No. 1040, § 2; 1991, No. 1239, § 2; 1993, No. 1072, § 6; 1995, No. 270, § 5; 1997, No. 298, § 4; 2001, No. 229, § 8; 2005, No. 20, § 9; 2009, No.

1464, § 5; 2017, No. 707, § 54; 2017, No. 1051, § 4; 2019, No. 416, § 5.

**A.C.R.C. Notes.** Acts 2019, No. 416, § 1, provided: “Legislative findings and intent.

“(a) The General Assembly finds that additional revenue will be available to the



state resulting from anticipated savings generated by the transformation of state government, the creation of cabinet positions, and other reductions in state government, and from the growth of casino gambling resulting from the adoption of The Arkansas Casino Gaming Amendment of 2018, Arkansas Constitution, Amendment 100.

“(b) The General Assembly intends to use a portion of the anticipated savings described in subsection (a) of this section to make additional revenues available for use in maintaining and repairing public highways, streets, and bridges in the state.”

**Amendments.** The 2017 amendment

by No. 707 substituted “Department of Transportation” for “State Highway and Transportation Department” in the last undesignated paragraph; and made a stylistic change.

The 2017 amendment by No. 1051 substituted “(182), and (256)” for “and (182)” in (1).

The 2019 amendment inserted (8) and (9); and redesignated former (8) as (10).

**Effective Dates.** Acts 2019, No. 416, § 8: Oct. 1, 2019. Effective date clause provided: “Sections 4-7 of this act are effective on the first day of the calendar quarter following the effective date of this act.”

### 19-6-423. Division of Correction Prison Industry Fund.

The Division of Correction Prison Industry Fund shall consist of those special revenues as specified in § 19-6-301(43), there to be used for the maintenance, operation, and improvement of the Division of Correction’s prison industries activities.

**History.** Acts 1973, No. 808, § 14; A.S.A. 1947, § 13-503.13; Acts 2019, No. 910, § 992.

**Amendments.** The 2019 amendment substituted “Division of Correction Prison

Industry Fund” for “Department of Correction Prison Industry Fund” in the section heading and the text, and substituted “Division of Correction’s” for “Department of Correction’s”.

### 19-6-426. Arkansas Museum of Natural Resources Fund.

The Arkansas Museum of Natural Resources Fund shall consist of those special revenues as specified in § 19-6-301(61) and (101), there to be used for the construction, maintenance, operation, and improvement of the Arkansas Museum of Natural Resources in exercising the powers, functions, and duties as set out in § 13-5-401 et seq., and for paying the expenses of administering such funds by the Department of Parks, Heritage, and Tourism as may be authorized by law.

**History.** Acts 1973, No. 808, § 14; 1979, No. 1027, § 9; 1983, No. 222, § 5; A.S.A. 1947, § 13-503.13; Acts 2009, No. 251, § 23; 2019, No. 910, § 5674.

**Amendments.** The 2019 amendment substituted “Department of Parks, Heritage, and Tourism” for “department of Parks and Tourism”.

### 19-6-434. Hazardous Waste Permit Fund.

The Hazardous Waste Permit Fund shall consist of those special revenues as specified in § 19-6-301(59) and (237) there to be used by the Division of Environmental Quality to ensure the proper administration and enforcement of §§ 8-7-201 — 8-7-226 and the Phase I Environmental Site Assessment Consultant Act, § 8-7-1301 et seq.

**History.** Acts 1973, No. 808, § 14; 1983, No. 222, § 6; A.S.A. 1947, § 13-503.13; Acts 1999, No. 1164, § 169; 2007, No. 407, § 11; 2019, No. 910, § 3205.

**Amendments.** The 2019 amendment substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality".

### 19-6-452. Asbestos Control Fund.

The Asbestos Control Fund shall consist of the special revenues specified in § 19-6-301(130) and any other revenues authorized by law, there to be used to administer and enforce a program for licensing contractors engaged in the removal of friable asbestos materials from facilities by the Division of Environmental Quality under §§ 20-27-1001 — 20-27-1007.

**History.** Acts 1987, No. 792, § 5; 1999, No. 1164, § 171; 2013, No. 489, § 1; 2019, No. 910, § 3206.

substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality".

**Amendments.** The 2019 amendment

### 19-6-459. Commercial Driver License Fund.

The Commercial Driver License Fund shall consist of those special revenues as specified in:

(1) Section 19-6-301(148), to be used to establish and maintain the Arkansas Commercial Driver License Program and for other related purposes as required by the Secretary of the Department of Finance and Administration in carrying out the functions, powers, and duties of the Revenue Division, as set out in the Arkansas Uniform Commercial Driver License Act, § 27-23-101 et seq.;

(2) Section 19-6-301(255), to be used for system enhancements to the Arkansas Motor Carrier System under § 27-14-613; and

(3) Section 19-6-301(266) and (267).

**History.** Acts 1991, No. 76, § 4; 2017, No. 532, § 3; 2019, No. 524, § 2; 2019, No. 733, § 5; 2019, No. 910, § 3464.

**A.C.R.C. Notes.** Acts 2017, No. 532, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) The Department of Finance and Administration currently lacks clear authority and specific funding sources to adequately upgrade and modernize the registration process for commercial motor vehicles;

"(2) Due to current inefficiencies or technological limitations, commercial motor carriers that would otherwise register their commercial vehicles in the State of Arkansas are deterred from doing so;

"(3) The department should develop and implement rules, regulations, and procedures to facilitate an online system for administrative transactions and the registration of commercial motor vehicles

that are registered with the International Registration Plan;

"(4) The law needs to be clarified to verify that license plates for commercial motor vehicles registered with the International Registration Plan should not be required to display an annual decal or tab;

"(5) An enhancement creating an online system for administrative transactions and registration of commercial motor vehicles will facilitate and improve the services available to the commercial motor carrier industry;

"(6) Enhancements to the Arkansas Motor Carrier System will make available to the state additional revenues through a user-fee based system to finance the enhancements without requiring a general tax increase; and

"(7) Directing the department to develop rules, regulations, and procedures to implement the necessary enhancements



and providing a funding mechanism to help offset the costs associated with the system enhancements will accomplish the state's goal of improving services and modernizing the Arkansas Motor Carrier System."

**Amendments.** The 2017 amendment redesignated the former section as the introductory language and (1), and added (2); in (1), deleted "there" preceding "to be used" and substituted "Director of the Department of Finance and Administra-

tion" for "Commissioner of Motor Vehicles"; and made stylistic changes.

The 2019 amendment by No. 524 inserted "system" in (2).

The 2019 amendment by No. 733 added (3).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (1).

### 19-6-461. [Repealed.]

**Publisher's Notes.** This section, concerning the Arkansas Public Art Program Fund, was repealed by Acts 2017, No. 720,

§ 7. The section was derived from Acts 1993, No. 1072, § 8.

### 19-6-462. Private Career Education Fund.

The Private Career Education Fund shall consist of those special revenues as specified in § 19-6-301(24), there to be used for the maintenance and operations of the Division of Higher Education concerning the State Board of Private Career Education in carrying out the functions, powers, and duties as set out in § 6-51-601 et seq.

**History.** Acts 1991, No. 76, § 4; 2017, No. 565, § 25; 2019, No. 910, § 2275.

**Amendments.** The 2017 amendment inserted "Department of Higher Education concerning the".

The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education".

### 19-6-471. Marketing Recyclables Program Fund.

The Marketing Recyclables Program Fund shall consist of those special revenues as specified in § 19-6-301(162), there to be used by the Compliance Advisory Panel for the Marketing Recyclables Program for the administration and performance of its duties, as administered by the Division of Environmental Quality under § 8-9-201 et seq.

**History.** Acts 1993, No. 1072, § 12; 1999, No. 1164, § 172; 2017, No. 1067, § 9; 2019, No. 910, § 3207.

**Amendments.** The 2017 amendment substituted "Marketing Recyclables Program Fund" for "Marketing Board Fund" in the section heading and section; and substituted "Compliance Advisory Panel

for the Marketing Recyclables Program" for "State Marketing Board for Recyclables" and "under" for "as set out in".

The 2019 amendment substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality".

### 19-6-475. Securities Department Fund.

The Securities Department Fund shall consist of the first two million five hundred thousand dollars (\$2,500,000) of those special revenues as specified in § 19-6-301(173), (174), (245), and (259) and such other

funds as may be provided by law or regulatory action, there to be used for maintenance, operation, support, and improvement of the State Securities Department in carrying out its functions, powers, and duties as set out by law and by rules not inconsistent with law, as set out in § 23-42-211.

**History.** Acts 1995, No. 270, § 11; 2005, No. 20, § 13; 2011, No. 294, § 7; 2011, No. 1008, § 8; 2013, No. 438, § 1; 2017, No. 668, § 3; 2019, No. 315, § 1747.

**Amendments.** The 2017 amendment substituted “the first two million five hundred thousand dollars (\$2,500,000)” for “those special revenues as specified in § 19-6-301(211), the first four million dollars (\$4,000,000);” and inserted “and (259)”.

The 2019 amendment substituted “rules” for “rule and regulation”.

### **19-6-480. Livestock and Poultry Special Revenue Fund.**

The Livestock and Poultry Special Revenue Fund shall consist of those special revenues as specified in § 19-6-301(33) and (34) which are not required for support of the Arkansas Livestock and Poultry Commission Poultry and Egg Grading Program, there to be used for those purposes as set out by law. The Director of the Arkansas Livestock and Poultry Commission, with the approval of the Chief Fiscal Officer of the State, shall have the authority to transfer funds from the Livestock and Poultry Special Revenue Fund to the Livestock and Poultry Fund Account.

**History.** Acts 1995, No. 236, § 24; 1997, No. 298, § 9; 2019, No. 910, § 116.

**Amendments.** The 2019 amendment substituted “Director of the Arkansas Livestock and Poultry Commission” for “Executive Director of the Arkansas Livestock and Poultry Commission” in the second sentence.

### **19-6-484. Conservation Tax Fund.**

The Conservation Tax Fund shall consist of those special revenues as specified in § 19-6-301(193), there to be distributed to the fund accounts as set out below, which are created by this section unless specifically created in other provisions of the Arkansas Code, and under the following procedures:

(1) The Revenue Division shall deposit the funds collected under the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., for gross receipts taxes and the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., for compensating taxes into the State Treasury, there to be credited to the Revenue Holding Fund Account of the State Apportionment Fund;

(2)(A) On the last day of each month, the Chief Fiscal Officer of the State shall certify to the Treasurer of State the estimated amount of gross receipts and compensating tax collections in the Revenue Holding Fund Account that are a result of the changes by the passage of Arkansas Constitution, Amendment 75.



(B) The Treasurer of State shall then transfer the amount so certified to the Special Revenue Fund Account of the State Apportionment Fund as part of the gross special revenues.

(C) After the deductions as set out in § 19-5-203 have been made, the remaining amount shall be credited to the Conservation Tax Fund.

(D) The remaining gross receipts and compensating tax collections remaining in the Revenue Holding Fund Account shall be credited to the General Revenue Fund Account of the State Apportionment Fund, there to be distributed with the other gross general revenue collections for that month in accordance with the provisions of § 19-5-201 et seq.; and

(3) The Treasurer of State shall then make the following transfers from the Conservation Tax Fund to the fund accounts set out below at the end of each month:

(A) Forty-five percent (45%) to the Game Protection Fund to be used exclusively by the Arkansas State Game and Fish Commission as appropriated by the General Assembly;

(B) Forty-five percent (45%) to the Department of Parks, Heritage, and Tourism Fund Account to be used by the Department of Parks, Heritage, and Tourism for state park purposes as appropriated by the General Assembly;

(C) Nine percent (9%) to the Arkansas Division of Heritage Special Fund Account to be used exclusively by the Division of Arkansas Heritage as appropriated by the General Assembly; and

(D)(i) One percent (1%) to the Keep Arkansas Beautiful Fund Account to be used exclusively by the Keep Arkansas Beautiful Commission as appropriated by the General Assembly.

(ii) The Keep Arkansas Beautiful Fund Account also shall consist of the special revenues as specified in § 19-6-301(203).

**History.** Acts 1997, No. 156, § 1; 2003, No. 28, § 20; 2013, No. 1393, § 4; 2016 (3rd Ex. Sess.), No. 1, § 14; 2017, No. 1051, § 5; 2019, No. 910, § 5675.

**Amendments.** The 2017 amendment inserted “Department of” preceding the first occurrence of “Parks and Tourism” in (3)(B).

The 2019 amendment substituted “Department of Parks, Heritage, and Tourism”

for “Department of Parks and Tourism” twice in (3)(B); and, in (3)(C), substituted “Arkansas Division of Heritage Special Fund Account” for “Arkansas Department of Heritage Fund Account”, and “Division of Arkansas Heritage” for “Department of Arkansas Heritage”.

## 19-6-485. Health Department Technology Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Health Department Technology Fund”.

(b) The fund shall consist of:

(1) Three dollars (\$3.00) of the five-dollar fee levied by § 20-7-123(b)(1)(F);

(2) The four-dollar fee levied by § 20-7-123(b)(1)(G)(i);

(3) The one-dollar fee levied by § 20-7-123(b)(1)(G)(ii); and

(4) Three dollars (\$3.00) of the five-dollar fee levied by § 20-7-123(b)(1)(H)(i)(a).

(c) The fund shall be used exclusively by the Department of Health for the purchase of computer hardware and software, the conversion cost of scanning data into its computer system, and related activities.

**History.** Acts 2001, No. 957, § 5; 2003, No. 1723, § 13; 2017, No. 1051, § 6.

**Amendments.** The 2017 amendment substituted “five-dollar fee levied by § 20-7-123(b)(1)(F)” for “eight dollar fee levied by § 20-7-123(b)(1)(H)(i)” in (b)(1); substituted “The four-dollar fee levied by § 20-7-123(b)(1)(G)(i)” for “Four dollars (\$4.00) of the eight dollar fee levied by § 20-7-

123(b)(1)(I)(i)” in (b)(2); substituted “The one-dollar fee levied by § 20-7-123(b)(1)(G)(ii)” for “Two dollars (\$2.00) of the three dollar fee levied by § 20-7-123(b)(1)(I)(ii)” in (b)(3); substituted “five-dollar fee levied by § 20-7-123(b)(1)(H)(i)(a)” for “eight dollar fee levied by § 20-7-123(b)(1)(J)(i)” in (b)(4); and deleted (d).

### 19-6-486. Long Term Reserve Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Long Term Reserve Fund”.

(b) The Long Term Reserve Fund shall consist of such funds as may be provided by the General Assembly.

(c) The Long Term Reserve Fund shall be used to distribute moneys to one (1) or more funds or fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq.

(d)(1) After determining the estimated amount of general revenue that will be available for allocation to the state agencies under the Revenue Stabilization Law, § 19-5-101 et seq., and after making the determination required by § 19-5-1227(c) and prior to making any transfers deemed necessary by the Chief Fiscal Officer of the State in § 19-5-1227(d), the Chief Fiscal Officer of the State may transfer funds from the Long Term Reserve Fund in the event a “revenue shortfall” exists to meet the state’s financial obligation to provide an adequate educational system for the state and to provide for the effective operation of state government. In the event the Chief Fiscal Officer of the State determines that a “revenue shortfall” exists as defined as a circumstance when the official forecast of gross general revenue certified by the Chief Fiscal Officer of the State is projected to increase less than three percent (3%) over and above the gross general revenue collections of the previous fiscal year due to changes in economic conditions, he or she may then transfer funds from the Long Term Reserve Fund, as approved by a vote of at least two-thirds ( $\frac{2}{3}$ ) of the members of the Legislative Council or at least two-thirds ( $\frac{2}{3}$ ) of the members of the Joint Budget Committee, to various funds and fund accounts, as deemed necessary, in the Revenue Stabilization Law,



§ 19-5-101 et seq., for the purpose of meeting unanticipated shortfalls in state general revenue.

(2) Or the Chief Fiscal Officer of the State may transfer funds from the Long Term Reserve Fund to the Economic Development Superprojects Project Fund for projects authorized under Arkansas Constitution, Amendment 82, as approved by the Governor and at least two-thirds ( $\frac{2}{3}$ ) of the members of the Legislative Council or at least two-thirds ( $\frac{2}{3}$ ) of the members of the Joint Budget Committee.

(e)(1) Upon recommendation by the Chief Fiscal Officer of the State, the Governor may determine that circumstances exist that meet the requirements for the utilization of the Long Term Reserve Fund as set out in this section, and the procedures set out herein shall apply.

(2) When the Governor determines there is a need requiring transfer from the Long Term Reserve Fund, he or she shall instruct the Chief Fiscal Officer of the State to prepare and submit written documentation to the Legislative Council or the Joint Budget Committee. Such documentation shall include:

(A) Sufficient financial data that will enable the verification of the existence of an emergency and the amount necessary to address the need for long term reserve funds;

(B) A proposed distribution of moneys from the Long Term Reserve Fund to one (1) or more funds or fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both; and

(C) A statement certifying that no other funds are available that could be transferred in lieu of the funds in the Long Term Reserve Fund.

(3) Such documentation shall be submitted to the Legislative Council or Joint Budget Committee for approval prior to the implementation of the proposed distribution. The Chief Fiscal Officer of the State, after having sought and received prior approval of at least two-thirds ( $\frac{2}{3}$ ) of the members of the Legislative Council or at least two-thirds ( $\frac{2}{3}$ ) of the members of the Joint Budget Committee, shall cause the required transfers to be made on his or her books and on the books of the Treasurer of State and the Auditor of State from the Long Term Reserve Fund to the appropriate funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both. In no event shall the amounts transferred in any fiscal year to the funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., by this section cause the general revenues to exceed the maximum allocations authorized in the Revenue Stabilization Law, § 19-5-101 et seq.

(f) Determining the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation acts for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization Law, § 19-5-101 et seq.

Further, the General Assembly has determined that creating the Long Term Reserve Fund and establishing the procedures for the transfer of funds to various funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both, provides for the efficient and effective operation of state government if a revenue shortfall is determined to exist. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

(g) During each fiscal year, after the provisions of § 19-5-1004(b)(2) are complied with, the Chief Fiscal Officer of the State shall replenish the Long Term Reserve Fund by transferring no more than fifty percent (50%) of the balance in the General Revenue Allotment Reserve Fund or an amount equal to all transfers made under this section during the fiscal year immediately preceding the fiscal year in which such replenishment is made under this section, whichever is less, to the Long Term Reserve Fund.

**History.** Acts 2002 (1st Ex. Sess.), No. 2, § 1; 2007, No. 1055, §§ 1-4; 2016 (3rd Ex. Sess.), No. 1, § 15; 2017 (1st Ex. Sess.), No. 7, § 2.

**A.C.R.C. Notes.** Acts 2017 (1st Ex. Sess.), No. 7, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) The level of state financial reserves affects the state's credit rating, as a higher level of reserves will result in a better credit rating;

"(2) Arkansas scores low on financial reserves analyses, with the lack of adequate reserves negatively affecting the state's credit rating;

"(3) S&P Global Ratings gives the highest possible score, consistent with a AAA-rating, for states in which '[t]here is a formal budget-based reserve relative to revenue or spending that is above 8%';

"(4) S&P affirmed its 'AA' long-term rating to Arkansas's series 2016 taxable refunding higher education general obligation bonds and noted, 'The state lacks a formal reserve and liquidity policy . . . ' but also noted that the State of Arkansas has formed a funding strategy for the state's Long Term Reserve Fund;

"(5) A funded reserve fund and a higher credit rating will save the state money;

"(6) Arkansas currently has approximately one billion five hundred million dollars (\$1,500,000,000) in outstanding general obligation debt;

"(7) An improvement in the state's credit rating from AA to AAA would allow the state to borrow money at twelve (12) to fifteen (15) basis points below the current AA-rate, potentially saving the state one million eight hundred thousand dollars (\$1,800,000) per year in interest costs; and

"(8) In addition to financial benefits from a higher credit rating, there are numerous qualitative benefits, including the increased appeal of a higher credit rating to potential new industries, which will assist the state in pursuing the important goal of recruiting industry to our state."

Acts 2017 (1st Ex. Sess.), No. 7, § 4, provided: "Transfer from the Arkansas Healthy Century Trust Fund. Immediately upon the effective date of this act [May 4, 2017], or as soon as is practicable after the effective date of this act, the Chief Fiscal Officer of the State shall transfer on his or her books and the books of the Treasurer of State and the Auditor of State the balance of the Arkansas



Healthy Century Trust Fund to the Long Term Reserve Fund.”

Acts 2021, No. 1058, § 3, provided: “RESTRICTED RESERVE FUND DISTRIBUTION AND SET-ASIDES.

“(a) After having transferred or set-aside the obligations as set out in § 19-5-202(b)(2)(B)(iii) as determined by the Chief Fiscal Officer of the State, those funds transferred and credited to the Restricted Reserve Fund as authorized in Section 2 of this Act and any current unobligated balances in the Restricted Reserve Fund, the State Treasurer shall first set-aside one hundred seventy one million four hundred and five thousand dollars (\$171,405,000) for the ‘Restricted Reserve Fund Set-Asides’ as enumerated in subsections (a)(1) through (a)(3) of this section, with the exception of (a)(3)(B) Quick Action Closing Fund Carry Forward Set-Aside funds to be made available as authorized in Section 2(a)(3) of this Act.

“(1) Notwithstanding other provisions of law as set out in 19-5-1263(c) the Set-Asides authorized in subsections (a)(1)(A) and (B) herein shall require prior approval of the greater of three-fifths (3/5) of the quorum present or a majority of the membership by the Legislative Council during the extended recess, beginning on May 1, 2021, of the 2021 Regular Session or during the interim, or the Joint Budget Committee during a regular session, fiscal session, or extraordinary session of the General Assembly in the vote for the disbursements;

“(A) Executive/Legislative 3/5 Vote Set-Aside. For transfers from time to time as determined by the Chief Fiscal Officer of the State, in a sum not to exceed \$133,500,000;

“(B) State Police Vehicles 3/5 Vote Set-Aside. For transfers from time to time as determined by the Chief Fiscal Officer of the State for the Division of State Police Fund for State Police Vehicles, in a sum not to exceed \$3,000,000.

“(2) Notwithstanding other provisions of law as set out in 19-5-1263(c) the Unallocated Restricted Reserve Majority Vote Set-Aside authorized in subsections (a)(2)(A) herein shall only require a majority affirmative vote as set out in the rules of the Legislative Council during the extended recess, beginning on May 1, 2021, of the 2021 Regular Session or during the interim, or the Joint Budget Com-

mittee during a regular session, fiscal session, or extraordinary session of the General Assembly for prior approval of the disbursement;

“(A) Unallocated Restricted Reserve Majority Vote Set-Aside. For transfers from time to time as determined by the Chief Fiscal Officer of the State, in a sum not to exceed \$15,000,000.

“(3) Notwithstanding other provisions of law the Set-Asides authorized in subsections (a)(3)(A) through (C) herein shall not be subject to the approval requirements set out 19-5-1263(c) and shall only require reporting of the date and amount of transfers;

“(A) Economic Stimulus Programs Set-Aside. For transfers from time to time to the Department of Commerce Arkansas Economic Development Commission to fund or fund accounts as determined by the Chief Fiscal Officer of the State for funding for economic stimulus activities throughout the state, in a sum not to exceed \$5,800,000;

“(B) Quick Action Closing Fund Carry Forward Set-Aside. To the Economic Development Incentive Quick Action Closing Fund, for incentives to attract new business and economic development to the state, for transfers from time to time from funds made available as authorized in Section 2(a)(3) of this Act;

“(C) Department of Correction Lease Payments Set-Aside. For the Department of Correction to the Development and Enhancement Fund or its successor fund or fund accounts or any appropriation authorized by the General Assembly for the Department of Correction debt service payments, in a sum not to exceed \$14,105,000.

“(b) The next ten million dollars (\$10,000,000) shall be transferred to the Rainy Day Fund. This transfer to the Rainy Day Fund shall not be subject to the approval requirements set out 19-5-1263(c), however after the funds are transferred to the Rainy Day Fund those funds shall be subject to any requirements set out in law for Rainy Day Fund distributions for reporting or prior approval by the Legislative Council during the extended recess, beginning on May 1, 2021, of the 2021 Regular Session or during the interim, or the Joint Budget Committee during a regular session, fiscal session, or

extraordinary session of the General Assembly.

“(c) Then all remaining unobligated funds not set-aside, that are transferred or credited to the Restricted Reserve Fund and any future collections, deposits and transfers authorized in Section 2 of this Act shall be transferred and credited to the Long Term Reserve Fund.

“(d) On July 1, 2023 any unobligated funds remaining in the Restricted Reserve Fund Set-Asides established in subsection (a) herein shall be transferred to the Long Term Reserve Fund.”

Acts 2021, No. 1058, § 5, provided: “Effective Date. Section 4 of this act [repeal-

ing § 19-5-1262] is effective on and after December 31, 2022 and any remaining unobligated balances in the Rainy Day Fund shall be transferred to the Long Term Reserve Fund at that time.”

**Amendments.** The 2017 (1st Ex. Sess.) amendment in the second sentence of (d)(1), inserted “a vote of at least two-thirds (⅔) of the members of” and “at least two-thirds (⅔) of the members of the”; in (d)(2) and the second sentence of (e)(3), inserted “at least two-thirds (⅔) of the members of” and “at least two-thirds (⅔) of the members of the”; and, in (g), substituted “shall” for “may” and deleted the second sentence.

## 19-6-487. [Repealed.]

**Publisher’s Notes.** This section, concerning the Health Adequacy Committee Fund, was repealed by Acts 2017, No. 263,

§ 5. The section was derived from Acts 2003, No. 1816, § 2.

## 19-6-488. One Percent to Prevent Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “One Percent to Prevent Fund”.

(b)(1) The fund shall consist of any other revenues as may be authorized by law.

(2) The fund also shall consist of any federal funds or private foundation grants.

(c) The fund shall be exclusively used by the Department of Human Services to prevent the children of prisoners from becoming future prisoners.

**History.** Acts 2003, No. 1224, § 3; 2017, No. 897, § 13.

**Amendments.** The 2017 amendment, in (c), substituted “Department of Human

Services” for “State Child Abuse and Neglect Prevention Board”, and deleted “as provided under §§ 9-30-105(c) and 9-30-107(c)” from the end.

## SUBCHAPTER 8 — SPECIAL REVENUE FUNDS CONTINUED

### SECTION.

19-6-802. Arkansas Citizens First Responder Safety Enhancement Fund. [Effective until contingency in Acts 2019, No. 869, § 24, is met.]

19-6-802. Arkansas Citizens First Responder Safety Enhancement Fund. [Effective when contingency in Acts

### SECTION.

2019, No. 869, § 24, is met.]

19-6-807. In God We Trust License Plate Fund.

19-6-809. Arkansas Alternative Fuels Development Fund.

19-6-815. School-Age Children Eye and Vision Care Fund.

19-6-818. Wildlife Observation Trail Fund.



## SECTION.

- 19-6-824. Commercial Truck Safety and Education Fund.
- 19-6-828. State Aid Street Fund.
- 19-6-829. Road and Bridge Repair, Maintenance, and Grants Fund.
- 19-6-830. [Repealed.]
- 19-6-832. Arkansas Highway Transfer Fund.
- 19-6-833. Arkansas Division of Heritage Special Fund Account.
- 19-6-834. Department of Parks, Heritage, and Tourism Fund Account.
- 19-6-835. Arkansas Industrial Hemp Program Fund.

## SECTION.

- 19-6-836. Arkansas Medical Marijuana Implementation and Operations Fund.
- 19-6-837. Medical Marijuana Commission Fund.
- 19-6-838. Domestic Violence Shelter Fund.
- 19-6-839. Arkansas Wine Grants Fund.
- 19-6-840. Law Enforcement Training Fund.
- 19-6-841. Feral Hog Eradication Fund.
- 19-6-842. Arkansas Cyber Initiative Fund.
- 19-6-843. Breast Milk Bank Special Fund.

**Effective Dates.** Acts 2017, No. 508, § 13(a): Oct. 1, 2017. Effective date clause provided: “Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, and 12 of this act become effective on October 1, 2017.”

Acts 2017, No. 1051, § 8: July 1, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that various laws have been enacted since the passage of the Revenue Classification Law in 1973 that have changed or created various revenues collected by the state, and that this amendment to the Revenue Classification Law is necessary in order to reflect the various taxes, licenses, fees, and other revenues levied and collected for the support of and use by state government as they currently exist and from which appropriations that become effective July 1, 2017, have been made by the Ninety-First General Assembly. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2017.”

Acts 2019, No. 721, § 31: July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2019 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2019 could work

irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2019.”

Acts 2019, No. 869, § 24. Contingent effective date clause provided: “Section 2 and Section 5 of this act are effective on and after the date the Director of the Department of Finance and Administration and the advisory group established under § 27-22-203: (1) Determine that the online insurance verification system established under the Arkansas Online Insurance Verification System Act, § 27-22-201 et seq. is fully operational; and (2) Notify the Legislative Council and the Director of the Bureau of Legislative Research that the first fifteen dollars (\$15.00) of a fine assessed under § 27-22-103(a) or § 27-22-103(b) may be paid to the Treasurer of State for the benefit of the Arkansas Citizens First Responder Safety Enhancement Fund.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classifi-

cation of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

Identical Acts 2020, Nos. 186 and 187, § 7: July 1, 2020.

Identical Acts 2020, Nos. 186 and 187, § 8: July 1, 2020. Emergency clause pro-

vided: "It is found and determined by the General Assembly of the State of Arkansas that changes in the state's fiscal laws must take effect at the beginning of the fiscal year; and that it is necessary for this act to become effective on July 1, 2020, to avoid a lapse in critical and essential services that state government provides to the citizens of this state at the beginning of the next fiscal year. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2020."

### **19-6-802. Arkansas Citizens First Responder Safety Enhancement Fund. [Effective until contingency in Acts 2019, No. 869, § 24, is met.]**

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Arkansas Citizens First Responder Safety Enhancement Fund".

(b) The fund shall consist of eighty percent (80%) of the fines collected under § 27-22-111(a).

(c) The fund is to be used as appropriated by the General Assembly as follows:

(1) Fifty percent (50%) of the fund shall be used for emergency medical services; and

(2) Fifty percent (50%) of the fund shall be used for local law enforcement.

**History.** Acts 2005, No. 2246, § 2; effective when the contingency is met, see 2013, No. 1393, § 5.

**Publisher's Notes.** For text of section

the following version.

### **19-6-802. Arkansas Citizens First Responder Safety Enhancement Fund. [Effective when contingency in Acts 2019, No. 869, § 24, is met.]**

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Arkansas Citizens First Responder Safety Enhancement Fund".

(b) The fund shall consist of:

(1) Eighty percent (80%) of the fines collected under § 27-22-111(a); and

(2) The fines collected under § 27-22-103(c)(1).



(c) The fund is to be used as appropriated by the General Assembly as follows:

(1) Fifty percent (50%) of the fund shall be used for emergency medical services; and

(2) Fifty percent (50%) of the fund shall be used for local law enforcement.

**History.** Acts 2005, No. 2246, § 2; 2013, No. 1393, § 5; 2019, No. 869, § 2.

**Publisher's Notes.** For text of section effective until the contingency is met, see the preceding version.

**Amendments.** The 2019 amendment added (b)(2) and redesignated part of former (b) as (b)(1).

**Effective Dates.** Acts 2019, No. 869, § 24. Contingent effective date clause provided: "Section 2 and Section 5 of this act are effective on and after the date the Director of the Department of Finance and Administration and the advisory

group established under § 27-22-203: (1) Determine that the online insurance verification system established under the Arkansas Online Insurance Verification System Act, § 27-22-201 et seq. is fully operational; and (2) Notify the Legislative Council and the Director of the Bureau of Legislative Research that the first fifteen dollars (\$15.00) of a fine assessed under § 27-22-103(a) or § 27-22-103(b) may be paid to the Treasurer of State for the benefit of the Arkansas Citizens First Responder Safety Enhancement Fund."

### 19-6-807. In God We Trust License Plate Fund.

The In God We Trust License Plate Fund shall consist of those special revenues as specified in § 19-6-301(223) and any other revenues as may be authorized by law, there to be used by the Division of Aging, Adult, and Behavioral Health Services of the Department of Human Services to provide quarterly cash grants to each senior citizen center in a similar method as is used in the state's current system for distributing United States Department of Agriculture money to the senior citizen centers to purchase raw food, and for purchasing food for use in a home-delivered meal program, as set out in § 27-15-4904.

**History.** Acts 2007, No. 407, § 17; 2017, No. 913, § 52.

substituted "Division of Aging, Adult, and Behavioral Health Services" for "Division of Aging and Adult Services".

**Amendments.** The 2017 amendment

### 19-6-809. Arkansas Alternative Fuels Development Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Alternative Fuels Development Fund".

(b)(1) All moneys appropriated for the fund shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund also shall consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the Department of Agriculture to provide grants to support alternative fuels producers, feedstock processors, and alternative fuels distributors in Arkansas as provided under the Arkansas Alternative Fuels Development Act, § 15-13-101 et seq., or as otherwise provided by law.

**History.** Acts 2007, No. 873, § 2; 2019, substituted "Department of Agriculture" for "Arkansas Agriculture Department" in No. 910, § 117.  
**Amendments.** The 2019 amendment (c).

### 19-6-815. School-Age Children Eye and Vision Care Fund.

Any funds remaining in the School-Age Children Eye and Vision Care Fund shall be transferred to the Division of Elementary and Secondary Education Public School Fund Account to be used for school-based health centers.

**History.** Acts 2009, No. 1464, § 10; 2019, No. 757, § 67.  
**Amendments.** The 2019 amendment substituted "Any funds remaining in the" for "The" and "shall be transferred to the Division of Elementary and Secondary Education Public School Fund Account to be used for school-based health centers" for "shall consist of those special revenues as specified in § 19-6-301(242), and any other revenues as may be authorized by law, there to be used by the Arkansas Commission on Eye and Vision Care of School Age Children for the purpose of carrying out its responsibilities as stated in uncodified Section 1 of Acts 2007, No. 138".

### 19-6-818. Wildlife Observation Trail Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Wildlife Observation Trail Fund" administered by the Department of Parks, Heritage, and Tourism.

(b) The fund shall consist of:

(1) Those special revenues and any other revenues as may be authorized by law;

(2) Any moneys appropriated to the fund by the General Assembly; and

(3) Any gifts, contributions, grants, or bequests received from federal, private, or other sources.

(c) The fund shall be used by the department to develop criteria to establish and fund the development and maintenance of wildlife observation trails.

**History.** Acts 2009, No. 686, § 2; 2019, substituted "Department of Parks, Heritage, and Tourism" for "Department of Parks and Tourism" in (a).  
**Amendments.** The 2019 amendment

### 19-6-824. Commercial Truck Safety and Education Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Commercial Truck Safety and Education Fund".

(b)(1) Beginning October 1, 2013, the first two million dollars (\$2,000,000) of the fee charged under § 27-14-601(a)(3)(G)(ii) for the fiscal year ending June 30, 2014, shall be deposited into the State Treasury to the credit of the fund as special revenues.



(2) Beginning July 1, 2014, the first two million dollars (\$2,000,000) per fiscal year of the fee charged under § 27-14-601(a)(3)(G)(ii) shall be deposited into the State Treasury to the credit of the fund as special revenues.

(3) The fund also shall consist of any other revenues as may be authorized by law.

(c) The fund shall be used by the Arkansas Department of Transportation to improve the safety of the commercial truck industry through cooperative public-private programs that focus on increased enforcement, regulatory compliance, industry training, and educational programs to ensure the safe movement of goods on state highways.

**History.** Acts 2013, No. 1176, § 2; substituted "Department of Transportation" for "State Highway and Transportation Department" in (c).  
2017, No. 707, § 55.

**Amendments.** The 2017 amendment

### 19-6-828. State Aid Street Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "State Aid Street Fund".

(b) The fund shall consist of one cent (1¢) per gallon tax from revenue distributed under the Arkansas Highway Revenue Distribution Law, § 27-70-201 et seq., from the proceeds derived from existing motor fuel taxes and distillate fuel taxes.

(c) The fund shall be used for construction, reconstruction, and improvements of the state aid street system under the State Aid Streets Law, § 27-72-401 et seq.

(d)(1) All revenues deposited into the fund shall be apportioned to the municipalities as prescribed in § 27-72-413 for the distribution on the state aid street system among the various municipalities.

(2) The apportioned funds shall remain for a period of two (2) years from the date they are apportioned.

(3) Any unused funds shall be returned to the fund for redistribution in accordance with § 27-72-413.

(4)(A) For a municipality to receive these funds, the municipality shall be matched in the ratio of ninety percent (90%) of moneys from the fund to not less than ten percent (10%) municipal matching funds for all municipalities with a population in excess of twenty-five thousand (25,000) residents.

(B) For all other municipalities, the state aid street system shall be funded at one hundred percent (100%), and all municipalities receiving moneys from the fund shall comply with the State Aid Streets Law, § 27-72-401 et seq.

**History.** Acts 2013, No. 1393, § 7;  
2017, No. 263, § 6.

**Amendments.** The 2017 amendment rewrote the section.

### **19-6-829. Road and Bridge Repair, Maintenance, and Grants Fund.**

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Road and Bridge Repair, Maintenance, and Grants Fund".

(b) The fund shall consist of:

(1) Moneys collected under § 26-58-124, as designated under § 26-58-124(c)(2); and

(2) Any other revenues authorized by law.

(c) The fund shall be used for the maintenance, operation, and improvement required by the Arkansas Department of Transportation in carrying out the functions, powers, and duties stated in Arkansas Constitution, Amendment 42, §§ 27-65-102 — 27-65-107, 27-65-110, 27-65-122, and 27-65-124, and the other laws of this state prescribing the powers and duties of the department and the State Highway Commission.

**History.** Acts 2015, No. 536, § 3; 2017, No. 707, § 56; 2017, No. 1019, § 2.

**Amendments.** The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (c).

The 2017 amendment by No. 1019 substituted "§ 26-58-124(c)(2)" for "§ 26-58-124(c)(1)(B)" in (b)(1).

### **19-6-830. [Repealed.]**

**Publisher's Notes.** This section, concerning the Skills Development Fund, was repealed by identical Acts 2020, Nos. 186

and 187, § 2, effective July 1, 2020. The section was derived from Acts 2015, No. 892, § 4. For current law, see § 19-5-1268.

### **19-6-832. Arkansas Highway Transfer Fund.**

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Highway Transfer Fund".

(b) The Arkansas Highway Transfer Fund shall be used to provide additional funding to the Arkansas Department of Transportation for use in constructing and maintaining the highways of this state.

(c) In the event revenues to the department are insufficient to fully address the highway construction and maintenance needs of the state, the department may provide a written document to the Governor outlining the reasons that additional funding is needed and requesting that the Governor provide a recommendation to the Legislative Council or the Joint Budget Committee for review and approval of the transfer of funds in the Arkansas Highway Transfer Fund to the State Highway and Transportation Department Fund.

(d) Upon review and approval of the Legislative Council or the Joint Budget Committee, the Chief Fiscal Officer of the State may transfer funds from the Arkansas Highway Transfer Fund to the State Highway



and Transportation Department Fund as deemed necessary to provide additional funding to address the highway construction and maintenance needs of the state.

(e) The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

**History.** Acts 2016 (3rd Ex. Sess.), No. 1, § 13; 2017, No. 707, § 57.

**Amendments.** The 2017 amendment

substituted "Department of Transportation" for "State Highway and Transportation Department" in (b).

### 19-6-833. Arkansas Division of Heritage Special Fund Account.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Division of Heritage Special Fund Account".

(b) The fund shall consist of:

(1) That portion of moneys collected from the excise tax of one-eighth of one percent ( $\frac{1}{8}$  of 1%) levied by Arkansas Constitution, Amendment 75, as set out in § 19-6-484(3)(C); and

(2) Any other funds authorized or provided by law.

(c) The fund shall be used exclusively by the Division of Arkansas Heritage as appropriated by the General Assembly.

**History.** Acts 2017, No. 1051, § 7; 2019, No. 910, § 5677.

**Amendments.** The 2019 amendment substituted "Arkansas Division of Heritage Special Fund Account" for "Arkansas

Department of Heritage Fund Account" in the section heading and in (a); and substituted "Division of Arkansas Heritage" for "Department of Arkansas Heritage" in (c).

### 19-6-834. Department of Parks, Heritage, and Tourism Fund Account.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Department of Parks, Heritage, and Tourism Fund Account".

(b) The fund shall consist of:

(1) That portion of moneys collected from the excise tax of one-eighth of one percent ( $\frac{1}{8}$  of 1%) levied by Arkansas Constitution, Amendment 75, as set out in § 19-6-484(3)(B); and

(2) Any other funds authorized or provided by law.

(c) The fund shall be used by the Department of Parks, Heritage, and Tourism for state park purposes as appropriated by the General Assembly.

**History.** Acts 2017, No. 1051, § 7; 2019, No. 910, § 5678.

**Amendments.** The 2019 amendment substituted "Department of Parks, Heri-

tage, and Tourism” for “Department of Parks and Tourism” in the section heading, and in (a) and (c).

### **19-6-835. Arkansas Industrial Hemp Program Fund.**

(a) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the “Arkansas Industrial Hemp Program Fund”.

(b) The fund shall consist of:

(1) Fees collected under the Arkansas Industrial Hemp Production Act, § 2-15-501 et seq.;

(2) Gifts, grants, and other funds both public and private; and

(3) Other revenues as may be authorized by law.

(c) Any unallocated or unencumbered balances in the fund shall be invested in the fund, and any interest or other income earned from the investments, along with the unallotted or unencumbered balances in the fund, shall not lapse but shall be carried forward for purposes of the fund and made available solely for the purposes and benefits of the industrial hemp production program under the Arkansas Industrial Hemp Production Act, § 2-15-501 et seq.

**History.** Acts 2017, No. 981, § 3; 2021, No. 565, § 4.

**Amendments.** The 2021 amendment substituted “Arkansas Industrial Hemp Production Act, § 2-15-501 et seq.” for

“Arkansas Industrial Hemp Act, § 2-15-401 et seq.” in (b)(1) and (c); and substituted “production program” for “research program” in (c).

### **19-6-836. Arkansas Medical Marijuana Implementation and Operations Fund.**

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Arkansas Medical Marijuana Implementation and Operations Fund”.

(b) The fund shall consist of:

(1) Moneys obtained pursuant to § 17 of the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98, from taxation of medical marijuana; and

(2) Any other revenues as may be authorized by law.

(c) The fund shall be used to pay expenses of state agencies incurred due to the passage of the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98, and for transfers of the distributions as set out by the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98.

**History.** Acts 2017, No. 670, § 3.



**19-6-837. Medical Marijuana Commission Fund.**

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Medical Marijuana Commission Fund".

(b) The fund shall consist of:

(1) Funds distributed under § 17(b) of the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98; and

(2) Other revenues and funds authorized by law.

(c) The Medical Marijuana Commission shall use the fund for the administration of the commission and other purposes under the Arkansas Medical Marijuana Amendment of 2016, Arkansas Constitution, Amendment 98.

**History.** Acts 2017, No. 670, § 3.

**19-6-838. Domestic Violence Shelter Fund.**

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Domestic Violence Shelter Fund".

(b) The fund shall be used to provide funding for statewide grants awarded to a statewide domestic violence entity under the Arkansas Domestic Violence Shelter Act, § 9-6-101 et seq.

(c) The fund shall consist of:

(1) The special revenues collected under § 9-15-202(d) and § 16-10-305(h);

(2) Moneys obtained from private grants or other sources that are designated to be credited to the fund; and

(3) Any other revenues authorized by law.

**History.** Acts 2017, No. 583, § 6.

**19-6-839. Arkansas Wine Grants Fund.**

(a)(1) There is established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Wine Grants Fund".

(2) The Arkansas Wine Grants Fund shall consist of fees collected from grocery store wine permits under § 3-5-1802 and shall be administered by the Department of Finance and Administration.

(b) Fifty percent (50%) of fees that are deposited into the Arkansas Wine Grants Fund under § 3-5-1802 shall be transferred to the Arkansas Agricultural Marketing Grants Fund to be used to make payments of grants under the grant program in § 3-5-901 et seq.

(c) Fifty percent (50%) of fees that are deposited into the Arkansas Wine Grants Fund under § 3-5-1802 shall be transferred to the Tourism Development Trust Fund for the purpose of land acquisition, construction, lease, equipment acquisition, improvements, renovation,

major maintenance, personal services, maintenance, operating and staffing a wine tourism facility and office space for the Arkansas Wine Producers Council within the tourism facility in Franklin County, Arkansas.

(d) Any unused or undesignated fees at the end of the fiscal year shall be transferred to the Tourism Development Trust Fund.

**History.** Acts 2017, No. 508, § 10; 2019, No. 721, § 28; 2019, No. 1050, § 5.

**A.C.R.C. Notes.** As amended by Acts 2019, No. 721, § 28, subsection (d) read as follows: “(d) Any funds not obligated unused or undesignated fees at the end of the fiscal year shall be transferred to the Tourism Development Trust Fund.”

However, there was no markup in Acts 2019, No. 721, to indicate an intent to add the words “funds not obligated” to subsection (d), and the addition of the words “funds not obligated” would make subsection (d) unintelligible. Accordingly, pursuant to § 1-2-207, subsection (d) is set out

as it appears in Acts 2019, No. 1050, § 5.

**Amendments.** The 2019 amendment by No. 721 inserted “land acquisition, construction, lease, equipment acquisition, improvements, renovation, major maintenance, personal services, maintenance” in (c).

The 2019 amendment by No. 1050 rewrote (b).

**Effective Dates.** Acts 2017, No. 508, § 13(a): Oct. 1, 2017. Effective date clause provided: “Sections 1, 2, 3, 6, 7, 8, 9, 10, 11, and 12 of this act become effective on October 1, 2017.”

## 19-6-840. Law Enforcement Training Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Law Enforcement Training Fund”.

(b) The fund shall consist of such revenues as may be collected under § 12-41-505 or as otherwise authorized by law.

(c) The fund shall be used by the Arkansas Commission on Law Enforcement Standards and Training to establish and conduct training for law enforcement officers, personnel, jailers, 911 operators, or other persons determined by the commission to qualify for the training.

**History.** Acts 2019, No. 372, § 4.

## 19-6-841. Feral Hog Eradication Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Feral Hog Eradication Fund”.

(b) The fund shall consist of:

(1) Fines collected under § 2-38-504; and

(2) Any other revenues as may be authorized by law.

(c) The fund shall be used by the Department of Agriculture for expenses associated with the eradication efforts to eliminate feral hogs.

**History.** Acts 2019, No. 991, § 6; 2021, No. 692, § 5.

**Amendments.** The 2021 amendment

substituted “Department of Agriculture” for “Arkansas Natural Resources Commission” in (c).



**19-6-842. Arkansas Cyber Initiative Fund.**

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Cyber Initiative Fund".

(b) The fund shall consist of:

(1) All moneys appropriated to the fund by the General Assembly; and

(2) Any gifts, contributions, grants, or bequests received from federal, private, or other sources.

(c) The fund shall be used by the Arkansas Economic Development Commission for the purposes set out in the Arkansas Cyber Initiative Act, § 25-26-301 et seq.

**History.** Acts 2019, No. 1085, § 2.

**19-6-843. Breast Milk Bank Special Fund.**

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Breast Milk Bank Special Fund".

(b) The fund shall consist of:

(1) Fees collected under § 20-7-140;

(2) Moneys obtained from federal grants or other sources that are designated to be credited to the fund;

(3) Gifts, grants, and other moneys both public and private; and

(4) Any other revenues as may be authorized by law.

(c) The fund shall be used by the University of Arkansas for Medical Sciences for expenses of the Arkansas Breast Milk Bank.

**History.** Acts 2021, No. 225, § 3.

## CHAPTER 7

### FEDERAL FUNDS

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
4. RECEIPT OF FEDERAL FUNDS GENERALLY.
6. GRANT APPLICATION REVIEW — INDIRECT COST REIMBURSEMENTS.
7. TITLE XX SOCIAL SECURITY FUNDS.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

##### SECTION.

19-7-101. Reports to Legislative Council.  
19-7-102. Legislative review of federal programs.

##### SECTION.

19-7-103. Control of college study programs and basic educational grants.

**Effective Dates.** Acts 2019, No. 910, § 6346(b); July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 19-7-101. Reports to Legislative Council.

(a) The Secretary of the Department of Finance and Administration shall file quarterly reports with the Legislative Council itemizing and summarizing all contracts or agreements entered into by the Governor with the United States Government, or any agencies or instrumentalities thereof, whereby the State of Arkansas is to participate in any program involving the expenditure of federal funds, whether or not state funds are obligated in connection therewith, with respect to new federal programs, or expansion of existing federal programs which were not in existence or which were not implemented by state participation, at the time of the adjournment of the regular session of the General Assembly and entered into prior to the convening of the next regular session of the General Assembly.

(b) The report shall list, with respect to each such contract or agreement:

- (1) A brief statement of the purposes of the agreement;
- (2) The amount of federal funds to be expended thereunder;
- (3) The amount of any state matching funds required in connection with the program, if any;
- (4) The name of the agency or department that will administer the program; and

(5) Such additional information as will enable the members of the Legislative Council to determine the nature and purposes of the agreement.

**History.** Acts 1971, No. 191, § 1; A.S.A. 1947, § 13-733; Acts 2019, No. 910, § 3469.

**Amendments.** The 2019 amendment

substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a).

### 19-7-102. Legislative review of federal programs.

(a) The Legislative Council shall review the quarterly reports filed by the Secretary of the Department of Finance and Administration as required in § 19-7-101 and shall submit its findings and recommendations to each succeeding regular session of the General Assembly for



enabling legislation to implement, restrict, or prohibit the state's participation in any such new federal program or expanded federal program which was implemented by contract or agreement entered into by the Governor subsequent to the adjournment of the preceding session of the General Assembly.

(b)(1) In the event the next regular session of the General Assembly shall fail to prohibit or restrict the state's participation in any such new or expanded program implemented by contract or agreement signed by the Governor with the federal government during the interim between the immediately preceding regular session of the General Assembly, then the state may continue to participate in that federal program.

(2) On the other hand, if the General Assembly shall restrict or prohibit the state's participation in any such new or expanded federal program implemented by contract or agreement subsequent to the last regular session, it shall be unlawful for the state to continue to participate in, or to expend any state funds in connection with, any such program. All contracts or agreements entered into by the Governor or any department or agency of the state acting under authority of the Governor shall be void, and the state's participation therein shall cease upon the adjournment of the General Assembly or at such later date if a later date for the termination of the state's participation therein has been prescribed by law.

**History.** Acts 1971, No. 191, § 2; A.S.A. 1947, § 13-734; Acts 2019, No. 910, § 3470.

substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a).

**Amendments.** The 2019 amendment

### **19-7-103. Control of college study programs and basic educational grants.**

(a) All state agencies, departments, and institutions receiving public funds are charged with the responsibility of the handling, receipt, and disbursement of these funds within their normal framework as provided by the laws of the State of Arkansas. The control of these funds arising from the federal programs of college work-study programs and basic educational opportunity grants received by the named governmental entities within this subchapter shall be within the daily control of the various administrators of the agencies.

(b)(1) The Division of Elementary and Secondary Education shall issue rules for the purpose of administering the funds received for college work-study programs and basic educational opportunity grants for the vocational-technical schools.

(2) The Division of Higher Education shall issue rules for the purpose of administering the funds received by state colleges and universities.

(3) The administration guidelines for the control of the funds of these two (2) programs shall be treated within the fiscal management laws of the State of Arkansas.

(4) Before these rules are implemented, the approval of the Legislative Council and the Legislative Joint Auditing Committee shall be obtained.

(c) Any and all agreements made by state agencies with Arkansas Plan, Inc., are declared to be against public policy of the State of Arkansas, with such agreements being null and void.

(d) Any public servant who does not comply with the provisions of this section commits a Class A misdemeanor. This offense is classified as noncompliance with this section.

**History.** Acts 1979, No. 34, §§ 1-4; A.S.A. 1947, §§ 17-735—17-738; Acts 2015, No. 1258, § 16; 2019, No. 910, § 2276.

**Amendments.** The 2019 amendment

substituted “Division of Elementary and Secondary Education” for “Department of Education” in (b)(1); and substituted “Division of Higher Education” for “Department of Higher Education” in (b)(2).

## SUBCHAPTER 4 — RECEIPT OF FEDERAL FUNDS GENERALLY

### SECTION.

19-7-406. Loans on agricultural products.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

### 19-7-406. Loans on agricultural products.

It shall be lawful for the Division of Correction and other state institutions and the counties of the state which produce cotton or other agricultural products to participate in government loans made available upon these agricultural products. The superintendent of any such state institution and the county judge of any such county are authorized to enter into the necessary papers to secure the benefits of these government loans.

**History.** Acts 1949, No. 332, § 1; A.S.A. 1947, § 13-727; Acts 2019, No. 910, § 993.

**Amendments.** The 2019 amendment

substituted “Division of Correction” for “Department of Correction” in the first sentence.



## SUBCHAPTER 6 — GRANT APPLICATION REVIEW — INDIRECT COST REIMBURSEMENTS

## SECTION.

19-7-604. Federal grants, aids, and reimbursement procedures.

19-7-606. Transfer of reimbursements.

## SECTION.

19-7-610. Advice of legislative departments.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 19-7-604. Federal grants, aids, and reimbursement procedures.

#### (a) REQUESTS FOR FEDERAL GRANTS.

(1) All formal applications for federal funds for grants, aids, and reimbursements originated by a state agency, board, commission, department, or institution shall be submitted to the Department of Finance and Administration prior to their submission to the granting source.

(2) Applications shall include, in a manner prescribed by the Secretary of the Department of Finance and Administration, a summary of the proposed project.

(3) The summary will include the indirect cost rate of the applicant agency, together with a projection of funds to be received as indirect cost reimbursement.

(4) The Department of Finance and Administration shall file with the Bureau of Legislative Research a summary of these applications for their review.

#### (b) PRELIMINARY PROPOSALS.

(1) Preliminary, preapplication, or informal proposals which may eventually result in a commitment of personnel, space, facilities, or state funds shall be submitted to the Department of Finance and Administration at the time they are submitted to the federal granting agency.

(2) In order to eliminate overlap, inefficiency, or a violation of legislative intent, the secretary may require a review of the proposal, soliciting comment from other agencies which might be affected, and may require the suspension of negotiations until the review is completed.

(3) The provisions of this subsection shall not be applicable to institutions of higher education. However, a copy of the preliminary proposals shall be submitted to the Department of Finance and Administration for the information of the Department of Finance and Administration.

(c) **PROCEDURAL REQUIREMENTS.** The Department of Finance and Administration shall prescribe procedures relative to preliminary proposals and formal applications for federal grants, aids, and reimbursements.

(d) **RECEIPT OF FUNDS.**

(1) When any state agency receives notification of an award of any federal funds, grants, aids, or reimbursements, including unsolicited funds, the Department of Finance and Administration shall be notified on forms to be prescribed by the secretary.

(2) Included on such forms will be a section to report payments from federal funds for indirect cost reimbursements resulting from:

(A) Overhead costs of the agency, board, commission, department, or institution; and

(B) Overhead costs of state central services allocated to that agency, board, commission, department, or institution through the Statewide Cost Allocation Plan.

(3) The Department of Finance and Administration will provide the Bureau of Legislative Research a summary of such notifications for review.

(e) **STATE CLEARINGHOUSE.**

(1) The Office of Intergovernmental Services is to function as the state clearinghouse for coordinating the review and comment process relative to applications for federal funding assistance under Executive Order 12372 and other provisions of this subchapter.

(2) The Department of Finance and Administration shall be responsible, in consultation with state and local elected officials, for developing procedures to implement the review and comment process for applications for federal funding assistance.

**History.** Acts 1983, No. 498, § 4; A.S.A. 1947, § 13-761; Acts 2019, No. 910, §§ 3465-3467.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Finance and Administration" for "Director of the Department of Finance and Administration" in (a)(2); and substituted "secretary" for "director" in (b)(2) and (d)(1).

## **19-7-606. Transfer of reimbursements.**

The Secretary of the Department of Human Services is authorized to transfer from the Department of Human Services federal funds as designated by the Chief Fiscal Officer of the State to the appropriate state fund account those federal funds recovered as reimbursement for indirect costs which are not required to be transferred to the Constitutional Officers Fund or State Central Services Fund pursuant to this subchapter.



**History.** Acts 1989 (1st Ex. Sess.), No. 44, § 9; 2019, No. 910, § 5166.

**Amendments.** The 2019 amendment

substituted "Secretary of the Department of Human Services" for "Director of the Department of Human Services".

### 19-7-610. Advice of legislative departments.

It is recognized by the legislative and executive departments of government that some of the executive departments' authority or responsibility as provided in this subchapter should possibly have the legislative departments' concurrence before proceeding with such authority or responsibility. The legislative department, via the Legislative Joint Auditing Committee, the Legislative Council, joint interim committees, interim committees, or subcommittees of the foregoing may request the Secretary of the Department of Finance and Administration to seek the legislative department's advice before exercising certain authority or responsibility as authorized by this subchapter.

**History.** Acts 1983, No. 498, § 10; A.S.A. 1947, § 13-767; Acts 2019, No. 910, § 3468.

**Amendments.** The 2019 amendment

substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in the second sentence.

## SUBCHAPTER 7 — TITLE XX SOCIAL SECURITY FUNDS

### SECTION.

19-7-701. Contract services — Advance payment.

19-7-703. Loan provision.

### SECTION.

19-7-705. Use of funds.

19-7-706. Transfer of funds and appropriations.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 19-7-701. Contract services — Advance payment.

(a) In order to provide effective purchased services to the needy citizens of Arkansas, the Secretary of the Department of Human Services is authorized to pay one-twelfth ( $\frac{1}{12}$ ) of the total amount of a Title XX contract to the service provider on the effective date of the contract. The amount of the advance payment shall be adjusted out of

the reimbursement actually earned by the provider during the contract period.

(b) This section will be used only after the secretary has conducted a study of the financial condition of the contracting agency to determine if an advance payment is necessary. If the advance is necessary, the secretary shall forward his or her request and the reasons therefor to the Chief Fiscal Officer of the State for approval.

(c)(1) If the request is approved, the Chief Fiscal Officer of the State shall loan the necessary amount to the appropriate fund accounts within the Department of Human Services from the Budget Stabilization Trust Fund.

(2) However, the balance of any loans made under subdivision (c)(1) of this section during the course of a fiscal year shall be recovered by the department and repaid to the fund by June 30 of that fiscal year.

**History.** Acts 1981, No. 538, § 4; A.S.A. 1947, § 13-743; Acts 2009, No. 251, § 26; 2019, No. 910, § 5167.

**Amendments.** The 2019 amendment substituted "Secretary of the Department

of Human Services" for "Director of the Department of Human Services in (a); and substituted "secretary" for "director" twice in (b).

### 19-7-703. Loan provision.

(a) It is found and determined that the continued operations of the Title XX Services Program of the Department of Human Services, in accordance with the approved annual operations plan, are, from time to time, seriously impaired by either administrative oversights and delays by the United States Office of Grants Management or by the processes of federal fiscal year conversion. It is further found and determined that such delays in the proper preparation and transmittal of federal grant award authorizations and letter of credit instruments have created unnecessary hardships on the providers of services and the needy citizens of this state. Therefore, upon certification of the pending availability of federal funding by the Secretary of the Department of Human Services, the Chief Fiscal Officer of the State may grant temporary advances, the maximum amount not to exceed five million dollars (\$5,000,000), from the Budget Stabilization Trust Fund to the appropriate account of the Department of Human Services so affected by such delays.

(b) The Chief Fiscal Officer of the State shall recover within a period of twenty (20) days such temporary advances upon receipt of the grant award authorizations or letter of credit instruments.

**History.** Acts 1981, No. 538, § 6; A.S.A. 1947, § 13-745; Acts 2019, No. 910, § 5168.

**Amendments.** The 2019 amendment

substituted "Secretary of the Department of Human Services" for "Director of the Department of Human Services" in the third sentence of (a).



## **19-7-704. Deduction of tax withholding for individual contract providers.**

### **RESEARCH REFERENCES**

**ALR.** Construction and Application of Federal Insurance Contributions Act, 26 U.S.C. §§ 3101 et seq. — Supreme Court Cases. 7 A.L.R. Fed. 3d Art. 4 (2016).

## **19-7-705. Use of funds.**

The Secretary of the Department of Human Services is authorized to use funds earned through service fees, audit settlements, or federal program settlements for operation of the Title XX service program. Any unanticipated federal funding received under this provision will be handled in accordance with the terms of the Miscellaneous Federal Grant Act, § 19-7-501 et seq.

**History.** Acts 1981, No. 538, § 8; A.S.A. 1947, § 13-747; Acts 2019, No. 910, § 5169. substituted “Secretary of the Department of Human Services” for “Director of the Department of Human Services”.

**Amendments.** The 2019 amendment

## **19-7-706. Transfer of funds and appropriations.**

(a)(1) The Secretary of the Department of Human Services, in accordance with rules established by the Chief Fiscal Officer of the State, shall have the authority to transfer funds and appropriations from the appropriate division of the Department of Human Services to the various agencies of the department which receive allotments of Title XX funds. These transfers shall be limited to the allotment of funds available to each agency within the department.

(2)(A) In the event that funds and appropriations transferred under this section are not fully utilized, they will be available for transfer back to the appropriate division of the department for reallocation.

(B) It is further intended that if transfer of appropriations among line items appropriated to the appropriate division of the department becomes necessary for effective operation of the program, these shall be made in accordance with rules established by the Chief Fiscal Officer of the State. However, no such transfer will be used to increase authorization for regular salaries.

(b) The Chief Fiscal Officer of the State and the secretary shall cooperate to establish such fund accounts for deposit and disbursement of federal and local Title XX funds as are necessary for the orderly operation of a Title XX services program. The Chief Fiscal Officer of the State and the secretary shall establish procedures for the transfers of funds necessary to make reimbursement to providers or to agency fund accounts in payment for eligible services. These procedures will include provision for use of state matching funds where appropriated by law.

**History.** Acts 1981, No. 538, § 9; A.S.A. 1947, § 13-748; Acts 2019, No. 910, §§ 5170, 5171.

**Amendments.** The 2019 amendment

substituted "Secretary of the Department of Human Services" for "Director of the Department of Human Services" in (a)(1); and substituted "secretary" for "director" twice in (b).

## CHAPTER 8

### DEPOSITORIES FOR PUBLIC FUNDS

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
2. SECURITIES FOR DEPOSITS.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

#### SECTION.

- 19-8-101. Definitions.  
19-8-102. Legal funds.

#### SECTION.

- 19-8-106. Depository boards.  
19-8-107. Depository agreements.

#### 19-8-101. Definitions.

(a) "Bank" or "banking institution" means any state bank, national bank, savings bank, savings association, thrift, or other financial institution authorized to do business and having a main office or branch office in this state, which is insured by the Federal Deposit Insurance Corporation.

(b) "Public funds" or "funds" means any and all kinds of funds handled by treasurers, collectors, commissioners, sheriffs, clerks, and receivers appointed under § 14-62-104.

**History.** Acts 1935, No. 21, § 4; Pope's Dig., § 4330; Acts 1973, No. 89, § 2; A.S.A. 1947, § 13-804; Acts 2001, No. 1436, § 1; 2017, No. 712, § 4.

**Amendments.** The 2017 amendment added "and receivers appointed under § 14-62-104" in (b).

#### 19-8-102. Legal funds.

The legal funds referred to in §§ 19-8-101 — 19-8-107 as being eligible for deposit in depositories shall include any and all funds that may come into the hands of all treasurers, collectors, commissioners, sheriffs, clerks, and receivers by reason of their official capacities as commissioners.

**History.** Acts 1935, No. 21, § 4; Pope's Dig., § 4330; Acts 1973, No. 89, § 2; A.S.A. 1947, § 13-804; Acts 2017, No. 712, § 5.

**Amendments.** The 2017 amendment inserted "and receivers".

#### 19-8-106. Depository boards.

(a)(1) The quorum court of each of the several counties shall by ordinance establish a county depository board. The county depository board is to be composed of the county judge, the county treasurer and



county collector, or the sheriff when acting as ex officio tax collector, or those officials performing the duties of the above officials where an elective county office has been changed in accordance with Arkansas Constitution, Amendment 55.

(2) The board shall designate depositories and supervise the depositing of all county funds and all other public funds held by the county treasurer, except funds of a school district, and also shall designate depositories and supervise the depositing of all funds collected and held by the county collector.

(3) The board may also require county officials to settle with the county treasurer more frequently than required by Arkansas law.

(b)(1) Except as provided in subdivision (b)(2) of this section, the following persons shall constitute a three-member board to designate depositories and supervise the depositing of municipal funds:

(A) A mayor;

(B) A city clerk or recorder or clerk-treasurer or recorder-treasurer; and

(C) A city council member selected by the city council.

(2) Although the board shall not total more than three (3) members, the city council may replace one (1) of the three (3) board members listed in subdivision (b)(1) of this section with the city finance officer or other official.

(3) A majority of the board members shall be necessary to conduct business and to constitute a quorum.

(c) The commissioners of road, drainage, levee, and other improvement districts shall designate depositories and supervise the depositing of funds of their respective districts.

(d) The board of directors of any school district shall constitute a board to designate depositories and supervise the depositing of school district funds. All school district funds, whether held by the treasurer of the school district or by the county treasurer, shall be deposited as designated by the board of directors.

(e) A receiver appointed under § 14-62-104 shall be a designated depository and supervise the depositing of funds collected under § 14-62-101 et seq.

**History.** Acts 1935, No. 21, § 2; Pope's Dig., § 4328; Acts 1945, No. 57, § 1; 1973, No. 107, § 1; A.S.A. 1947, § 13-802; Acts 1987, No. 250, § 1; 2011, No. 619, § 1; 2017, No. 712, § 6.

**Amendments.** The 2017 amendment added (e).

### **19-8-107. Depository agreements.**

(a)(1) After the receipt from the Bank Commissioner of the list of banks or banking institutions eligible for public deposits, the depository boards shall:

(A) Designate the banks or banking institutions into which the funds shall be deposited; and

(B) With each bank or banking institution designated under subdivision (a)(1)(A) of this section, enter into a depository agreement and any supplemental agreements under subsection (c) of this section needed to perfect security of public deposits not fully insured directly by the United States.

(2) The depository boards may at any time enter into depository agreements with any new bank chartered if the bank is certified by the commissioner as being eligible as a depository of public funds under the laws of this state.

(3)(A) All depository agreements and supplemental agreements required for creating an enforceable perfected security in collateral for deposits of public funds shall continue in full force until the bank or banking institution receives written notice of revocation by the depository board or until there is a change of membership on the depository board as prescribed in this subsection.

(B) Depository agreements and supplemental agreements required to create an enforceable perfected security in collateral for deposits shall be updated at the time a new treasurer takes office.

(C) Except as provided under subdivision (a)(3)(A) of this section, agreements required to be signed by all members of a depository board shall be changed at the time of membership change on the depository board.

(b)(1) The treasurers or other public officials or other persons having custody of public funds shall deposit those public funds into the designated depositories.

(2) The depositing of public funds as required under subdivision (b)(1) of this section into the designated depositories shall relieve the public officer or other person and his or her sureties from any liability for the loss of the public funds by reason of the default or insolvency of any depository.

(3) County officials shall make timely deposit and investment of public funds to earn optimum interest consistent with the prudent investor rule defined by Arkansas law.

(c)(1) County and municipal officials shall:

(A) Require security for the deposit of public funds in the form of a demand deposit, a savings deposit, or a time deposit for amounts not fully insured directly by the United States; and

(B) Enter into supplemental agreements with each depository banking institution that satisfy the requirements of this subsection.

(2)(A) The Treasurer of State shall make available upon request to any county or municipality fillable depository agreement forms designed for county and municipal governments and any necessary supplemental agreement forms required for collateralizing public funds.

(B) The forms shall include language necessary to create an enforceable perfected security interest in all collateral for deposits.

(3) Depository boards and banks or banking institutions giving or holding collateral for deposits of public funds shall comply with federal



laws and regulations so that the governmental entity or political subdivision depositing public funds holds a valid claim in deposits and collateral given for those deposits against, and prevent avoidance of such a claim by, the Federal Deposit Insurance Corporation or its successor or any similar deposit insurance agency acting as receiver, conservator, or in any other capacity.

(4) All security required under this subsection shall meet the requirements of an eligible security under § 19-8-203 and § 23-47-203(c).

(5) Public officials may require as a condition for placing deposits or keeping funds on deposit such financial data as they need to make an informed decision, including without limitation quarterly financial statements, quarterly profit and loss statements, and tangible net worth or capital-to-assets ratios.

**History.** Acts 1935, No. 21, § 3; Pope's Dig., § 4329; Acts 1945, No. 62, § 1; 1947, No. 122, § 1; 1964 (1st Ex. Sess.), No. 18, § 1; A.S.A. 1947, § 13-803; Acts 1987, No. 250, §§ 2, 3; 1995, No. 232, § 9; 2003, No. 68, §§ 1, 2; 2011, No. 619, § 2; 2013, No. 405, § 1; 2019, No. 310, § 4.

**Amendments.** The 2019 amendment substituted "eligible for public deposits" for "and recommended amounts of public funds each may accept" in the introductory language of (a)(1); deleted the second sentence of (a)(2); added the (a)(3)(A) designation; in (a)(3)(A), inserted "and supplemental agreements required for

creating an enforceable perfected security in collateral for deposits of public funds" and "as prescribed in this subsection"; added (a)(3)(B) and (a)(3)(C); substituted "public funds shall deposit those public funds" for "these funds shall deposit them" in (b)(1); in (b)(2), substituted "public funds as required under subdivision (b)(1) of this section" for "these funds", and inserted the third occurrence of "public"; and, in (c)(2)(A), substituted "Treasurer of State" for "State Board of Finance" and "fillable" for "sample", and inserted "designed for county and municipal governments".

## SUBCHAPTER 2 — SECURITIES FOR DEPOSITS

### SECTION.

19-8-202. Definition.

### 19-8-202. Definition.

As used in this subchapter, "public funds" means, but shall not be limited to, funds of:

(1) The State of Arkansas, or any agency, department, board, commission, or instrumentality thereof;

(2) Any political subdivision of the State of Arkansas, or any agency thereof;

(3) Any school board or school district;

(4) Any improvement or other taxing or assessing district;

(5) Any public corporation or authority created by or recognized by the State of Arkansas, or any political subdivision thereof; and

(6) A receiver appointed under § 14-62-104.

**History.** Acts 1975, No. 373, § 2; A.S.A. 1947, § 13-810; Acts 2017, No. 712, § 7.

**Amendments.** The 2017 amendment added (6).

## CHAPTER 10

### CLAIMS AGAINST THE STATE

#### SUBCHAPTER.

1. GENERAL PROVISIONS.
2. ARKANSAS STATE CLAIMS COMMISSION.
4. WORKERS' COMPENSATION COMMISSION.

#### SUBCHAPTER 1 — GENERAL PROVISIONS

##### SECTION.

- 19-10-101. Investigatory powers.
- 19-10-102. Legal representative for state agencies.
- 19-10-103. State employee not to represent claimant.

##### SECTION.

- 19-10-104. Claims for late or lost warrants.
- 19-10-105. Definitions.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

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#### 19-10-101. Investigatory powers.

(a)(1) As soon as the Secretary of the Department of Finance and Administration learns of facts from which the secretary concludes that a claim may be filed under this chapter against the state or a state agency, the secretary shall investigate and take evidence concerning the claim.

(2) The secretary's duty under subdivision (a)(1) of this section applies whether or not the claim has already been filed at the time the secretary learns the relevant facts upon which the secretary bases his or her conclusion.

(3) Subdivision (a)(1) of this section does not apply to a claim for personal injury or death of a state employee.

(b) To carry out his or her duties under this section, the secretary may exercise all necessary investigatory powers conferred upon him or her by this chapter.

(c) All information acquired by the secretary under this section shall be made available to the Arkansas State Claims Commission before the hearing and determination of the claim.



**History.** Acts 1949, No. 462, § 12; 1951, No. 373, § 7; A.S.A. 1947, § 13-1412; Acts 2019, No. 785, § 1; 2019, No. 910, § 3471. **Amendments.** The 2019 amendment by No. 785 rewrote the section. The 2019 amendment by No. 910 substituted “secretary” for “director” throughout the section.

### **19-10-102. Legal representative for state agencies.**

(a)(1) An attorney for a state agency against which a claim is filed shall represent his or her respective state agency before the Arkansas State Claims Commission.

(2) The Attorney General shall represent all state agencies that have no special legal representatives before the Arkansas State Claims Commission.

(b) Legal representation for a public employer before the Workers’ Compensation Commission shall be in the manner prescribed in § 21-5-606.

**History.** Acts 1949, No. 462, § 11; A.S.A. 1947, § 13-1411; Acts 2019, No. 785, § 1. **Amendments.** The 2019 amendment rewrote (a).

### **19-10-103. State employee not to represent claimant.**

The following shall not appear before the Arkansas State Claims Commission or the Workers’ Compensation Commission as an attorney or representative for a claimant in the presentation or prosecution of a claim filed under this chapter:

- (1) A full-time employee of:
  - (A) The State of Arkansas; or
  - (B) A state agency; or
- (2) A member of a state agency.

**History.** Acts 1949, No. 462, § 13; A.S.A. 1947, § 13-1413; Acts 2019, No. 785, § 1. **Amendments.** The 2019 amendment rewrote the section.

### **19-10-104. Claims for late or lost warrants.**

Before approving a claim for reissuance of a state warrant that has been lost or presented for payment after expiration of the legal date for redemption, the Arkansas State Claims Commission shall request proof from the Auditor of State that:

- (1) The original warrant was legally canceled because of late redemption presentation; or
- (2) In the case of a lost warrant, an official warrant cancellation procedure has been exercised.

**History.** Acts 1977, No. 826, § 1; A.S.A. 1947, § 13-1415; Acts 2019, No. 785, § 1. **Amendments.** The 2019 amendment rewrote the section.

## 19-10-105. Definitions.

As used in this chapter:

(1) "General Assembly" means the appropriate subcommittee of the Legislative Council or the Joint Budget Committee that is assigned to hear appealed claims or claims requiring approval before being considered by the Legislative Council, the Joint Budget Committee, or the full General Assembly;

(2) "Insurer" means a person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance;

(3) "State agency" means a department, office, board, commission, or institution of this state, including a state-supported institution of higher education; and

(4) "Subrogation claim" means a claim filed with the Arkansas State Claims Commission by an insurer or by its insured, or both, to recover money paid or owed by an insurer to an individual under a contract of insurance.

**History.** Acts 2019, No. 785, § 1.

### SUBCHAPTER 2 — ARKANSAS STATE CLAIMS COMMISSION

#### SECTION.

- 19-10-201. Creation of commission —  
Members — Salary and expense reimbursement.
- 19-10-202. Director — Personnel.
- 19-10-203. Duties of director.
- 19-10-204. Jurisdiction.
- 19-10-205. Rulemaking authority.
- 19-10-206. Meetings.
- 19-10-207. Power to examine.
- 19-10-208. Complaints.
- 19-10-209. Time for filing.
- 19-10-210. Notice and hearings.
- 19-10-211. Appeals of decisions — Jurisdiction — Time periods to file.
- 19-10-212. Reports of state agency liability.
- 19-10-213. State agency to pay claim —  
Employment compensa-

#### SECTION.

- tion claims — Director disbursing officer.
- 19-10-214. Effect on liens.
- 19-10-215. Restrictions on awards.
- 19-10-216. Final orders — Findings of fact and conclusions of law required.
- 19-10-217. Motions — Grounds required to preserve for appeal.
- 19-10-218. Interlocutory appeals prohibited.
- 19-10-219. Small claims adjudication.
- 19-10-220. Special masters authorized.
- 19-10-221. Abuse of process by litigants.
- 19-10-222. Corporate or business entity to be represented by attorney.
- 19-10-223. Failure to exhaust available state or administrative remedy.

**Effective Dates.** Acts 2019, No. 746, § 8: July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2019 is essential to the operation of the agency for which the

appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2019 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being neces-



sary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2019.”

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded

sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

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### **19-10-201. Creation of commission — Members — Salary and expense reimbursement.**

(a)(1)(A) There is created a commission to be known as the “Arkansas State Claims Commission”.

(B) The commission shall consist of five (5) members to be known as “commissioners”.

(C) All commissioners shall be public-spirited persons of recognized standing, and at least two (2) commissioners shall be attorneys licensed to practice law in the State of Arkansas.

(2)(A)(i) The commissioners shall be appointed by the Governor and confirmed by the Senate.

(ii) The commissioners shall serve for terms of five (5) years and thereafter until a successor has been appointed and qualified.

(iii) A vacancy in the office of commissioner shall be filled by the Governor, and that appointee shall hold office during the unexpired portion of the term in which the vacancy occurred.

(B) Commissioners may be appointed to and may serve successive terms.

(b) Before entering upon the duties of his or her office, each commissioner shall take the constitutional oath of office.

(c)(1) A commissioner shall not hear or participate in the consideration of a claim in which he or she is interested personally, either directly or indirectly.

(2) If for reason of conflict of interest a commissioner disqualifies himself or herself or is absent for any reason from hearing a particular claim and if there are no other commissioners available to hear the claim or action, the interested parties may request that a special commissioner be appointed by the Governor to hear the specific claim or action.

(d) The commission shall elect from its membership a chair or two (2) cochairs.

(e)(1)(A) Each commissioner shall receive a salary as may be prescribed by law and appropriated by the General Assembly.

(B) The salary shall be paid in the manner as are salaries of other state officials and employees.

(2) In addition to salary, each commissioner may receive expense reimbursement in accordance with § 25-16-901 et seq.

(f) The commission is considered an adjudicatory body when the commission applies or interprets:

(1) A substantive procedural rule; or

(2) Case law from an appellate court with jurisdiction to a pending claim or action.

**History.** Acts 1955, No. 276, § 2; 1983, No. 470, § 1; 1985, No. 861, § 7; A.S.A. 1947, § 13-1401, 13-1401.2; Acts 1997, No. 250, § 175; 2019, No. 785, § 2.

**Amendments.** The 2019 amendment rewrote (a) and (c); added "or two (2)

cochairs" to (d); redesignated (e)(1) as (e)(1)(A) and (e)(1)(B); substituted "a salary" for "such salary" in (e)(1)(A); substituted "commissioner" for "member" in (e)(2); and added (f).

### 19-10-202. Director — Personnel.

(a) The Director of the Arkansas State Claims Commission shall be designated by the Arkansas State Claims Commission and shall serve as both the Executive Secretary for the Arkansas State Claims Commission and the Clerk of the Arkansas State Claims Commission.

(b) The commission may appoint other personnel as may be necessary to effectuate the operations of the commission and as may be authorized by biennial appropriation of the General Assembly.

**History.** Acts 1949, No. 462, § 5; 1983, No. 470, § 5; A.S.A. 1947, § 13-1405; Acts 2019, No. 785, § 2.

**Amendments.** The 2019 amendment rewrote (a); and deleted "such" following "appoint" in (b).

### 19-10-203. Duties of director.

(a)(1) The duties of the Director of the Arkansas State Claims Commission shall include maintaining a system of filing and adjudicating of claims or actions against the state.

(2) The director shall keep a docket of all claims or actions filed and shall present them to the Arkansas State Claims Commission in the chronological order of filing.

(3) The director is responsible for maintenance and custody of the docket, files, and records of the commission, including the transcripts of testimony and exhibits, with all papers and requests filed in proceedings, the minutes of all actions taken, and all of the commission's findings, determinations, opinions, reports, orders, and rules.

(4) The director shall prepare the docket of claims or actions to be considered by the commission and shall notify all parties of record of the time, date, and place of hearing in advance when a claim or action will be docketed for hearing before the commission.

(5) The director shall be responsible for hiring personnel in the administration of the commission.



(b) The commission shall authorize the director to sign or authenticate all orders and other actions of the commission.

**History.** Acts 1949, No. 462, § 5; 1983, No. 470, § 5; A.S.A. 1947, § 13-1405; Acts 2019, No. 315, § 1748; 2019, No. 785, § 2. by No. 315 deleted “and regulations” following “rules” in (a)(3). The 2019 amendment by No. 785 re-

**Amendments.** The 2019 amendment wrote the section.

### 19-10-204. Jurisdiction.

(a) The Arkansas State Claims Commission has jurisdiction over:

(1) A claim or action that is barred by the doctrine of sovereign immunity under Arkansas Constitution, Article 5, § 20, from being litigated in a court of general jurisdiction, except as otherwise provided by law;

(2) A claim or action that solely addresses the receipting, processing, and reissuance of child support payments through the Arkansas Child Support Clearinghouse;

(3) A claim or action to contest eligibility, qualification, or election to serve as a member of the House of Representatives for the purpose of making a nonbinding recommendation on the claim or action to that chamber of the General Assembly; and

(4) A claim or action to recover reasonable attorney’s fees and other litigation expenses reasonably incurred by a plaintiff who substantially prevails in an action under § 25-19-107 against the State of Arkansas or a state agency under the standard described in § 25-19-107(d)(1).

(b) The commission has no jurisdiction over a claim or action:

(1) Against a municipality, county, school district, or any other political subdivision of the state;

(2) Arising under:

(A) The Workers’ Compensation Law, § 11-9-101 et seq.;

(B) The Division of Workforce Services Law, § 11-10-101 et seq.;

(C) The Arkansas Teacher Retirement System Act, Acts 1973, No. 427;

(D) The Arkansas Public Employees’ Retirement System Act, Acts 1957, No. 177;

(E) The State Police Retirement System Act, § 24-6-201 et seq.; or

(F) Laws providing for old age assistance grants, child welfare grants, blind pensions, or any laws of a similar nature;

(3) Against the state for repayment of child support, except in cases in which the underlying support order is set aside as void ab initio by the court and the child support paid was retained by the state as reimbursement for public assistance paid on behalf of a child;

(4) Brought by a member of the uniformed armed services against the Department of the Military, the State Militia, or any subdivision of the State Militia, if the claim or action arises out of the performance of the claimant’s military duty;

(5) Brought against the Division of Community Correction for acts committed by a person while that person is subject to conditions of parole or probation under Arkansas law;

(6) Brought against the Division of Correction for acts committed by inmates while on authorized release from the Division of Correction;

(7) Brought against the Division of Youth Services for acts committed by juveniles released by the Division of Youth Services, whether or not the juvenile is subject to conditions of aftercare or probation; or

(8) For state tax refunds under § 26-18-507, a claim or action challenging tax assessments under § 26-18-406, or a claim or action challenging tax laws under Arkansas Constitution, Article 16, § 13.

(c) The commission shall not make an award for a claim or action that, as a matter of law, would be dismissed from a court of law for reasons other than sovereign immunity.

**History.** Acts 1949, No. 462, § 2; 1983, No. 470, § 2; 1983, No. 677, § 7; A.S.A. 1947, § 13-1402; Acts 1991, No. 1014, § 2; 1997, No. 1298, § 1; 2001, No. 1625, § 1; 2003, No. 1282, § 1; 2003, No. 1468, § 1; 2009, No. 440, § 1; 2013, No. 1478, § 1; 2019, No. 785, § 2; 2019, No. 910, §§ 494-496.

**Amendments.** The 2019 amendment by No. 785 rewrote the section.

The 2019 amendment by No. 910 substituted "Division of Workforce Services

Law" for "Department of Workforce Services Law" in (b)(1)(A)(i)(b) [now (b)(2)(B)]; substituted "Department of the Military" for "State Military Department" in (b)(1)(A)(iii)(a) [now (b)(4)]; substituted "Division of Community Correction" for "Department of Community Correction" in (b)(1)(A)(iii)(b) [now (b)(5)]; and substituted "Division of Correction" for "Department of Correction" twice in (b)(1)(A)(iii)(c) [now (b)(6)].

## 19-10-205. Rulemaking authority.

The Arkansas State Claims Commission may make and alter or amend all rules governing the procedure before the commission that may be necessary and expedient for the orderly discharge of the commission's duties and that are not inconsistent with this subchapter or other laws.

**History.** Acts 1949, No. 462, § 2; 1983, No. 470, § 2; 1983, No. 677, § 7; A.S.A. 1947, § 13-1402; Acts 2019, No. 315, § 1749; 2019, No. 785, § 2.

**Amendments.** The 2019 amendment by No. 315 deleted "and regulations" following "Rules" in the section heading; and

deleted "and regulations" following "rules".

The 2019 amendment by No. 785 substituted "Rulemaking authority" for "Rules and regulations" in the section heading; and rewrote the section.

## 19-10-206. Meetings.

(a)(1) The Arkansas State Claims Commission shall meet at the time and place designated by the Chair of the Arkansas State Claims Commission, the cochair of the Arkansas State Claims Commission, or the Director of the Arkansas State Claims Commission.

(2) General meetings of the commission for the purpose of hearing testimony and taking evidence shall be held each month unless scheduled differently by the chair, the cochair, or the director.

(b) The commission may hold a special meeting of the commission upon request by the interested parties.



(c) The commission shall meet in Little Rock but may conduct hearings elsewhere in the state if the commission determines that a hearing is relevant to business before the commission.

(d)(1) A majority of the commissioners shall constitute a quorum, and the concurrence of two (2) members of the commission shall be necessary for the allowance or disallowance of any claims.

(2) A vacancy does not impair the right of the remaining two (2) commissioners assigned to a particular hearing to exercise all powers of the full commission.

**History.** Acts 1949, No. 462, § 2; 1983, No. 470, § 2; 1983, No. 677, § 7; A.S.A. 1947, § 13-1402; Acts 1987, No. 249, § 1; 2019, No. 785, § 2.

**Amendments.** The 2019 amendment, in (a)(1), substituted “the time and place” for “such time and place as may be” and inserted “the cochairs of the Arkansas State Claims Commission”; in (a)(2), substituted “shall” for “will” and substituted “chair, the cochairs, or the director” for

“chair or director”; substituted “may hold a special meeting” for “may, at its discretion, hold special meetings” in (b); in (c), deleted “traditionally” following “shall”, deleted “at the State Capitol” following “Little Rock”, and substituted “determines that a hearing is relevant” for “deems a hearing is relative”; and, in (d)(2), substituted “does” for “shall” and “commissioners assigned to a particular hearing” for “members”.

### 19-10-207. Power to examine.

(a) The Director of the Arkansas State Claims Commission or a commissioner of the Arkansas State Claims Commission has the authority to administer oaths, to subpoena witnesses, to examine any books, documents, or records that may be relevant to any proceeding before the commission, and to require the production of any such materials.

(b) In an action to contest the election of a member of the House of Representatives, the commission’s general authority to subpoena witnesses and documents shall specifically include the authority to subpoena election officers and to subpoena any ballots cast or other election records in the election at issue.

(c) If a claimant or witness to whom an oath has been administered as provided under this section swears falsely to a fact material to the investigation of a claim, the false swearing shall constitute perjury, and the person swearing falsely shall be subject to prosecution.

(d)(1)(A) If a person or entity fails or refuses to obey a commission subpoena or order or refuses to testify or produce any books, papers, or other documents, the commission may present its petition setting forth the facts to any court of record.

(B) After being presented with a petition under this subsection, the court of record shall issue its subpoena to the person or entity, requiring his or her or its attendance before the court of record to testify or produce the books, papers, or documents as may be deemed necessary and pertinent.

(C) A person or entity failing or refusing to obey the subpoena or order of the court of record may be proceeded against in the same

manner as for refusal to obey any other subpoena, as provided by the Arkansas Rules of Civil Procedure.

(2) The commission may use the Attorney General and the services of the prosecuting attorneys for the county and district in which the enforcement of a subpoena under this subsection is required.

**History.** Acts 1949, No. 462, § 5; 1983, No. 470, § 5; A.S.A. 1947, § 13-1405; Acts 1991, No. 1014, § 3; 1999, No. 686, § 1; 2019, No. 785, § 2.

**Amendments.** The 2019 amendment, in (a), substituted “a commissioner” for “any member” and “has” for “shall have”; in (b), substituted “an action” for “actions”, and deleted “and all” preceding “ballots”; and rewrote (c) and (d).

### 19-10-208. Complaints.

(a)(1) A proceeding under this subchapter shall be commenced by a verified complaint, of which the original and three (3) copies shall be filed with the Director of the Arkansas State Claims Commission.

(2) The party filing the claim or action shall be designated as the claimant, and the State of Arkansas, state agency, or applicable agent of the state shall be designated as the respondent.

(b) Unless otherwise provided for under this section, the complaint shall state concisely the facts upon which the claim or action is based and shall set forth:

(1) The address of the claimant and the claimant’s attorney, if any;

(2) The time and place of the circumstances giving rise to the claim or action;

(3) The state agency whose action or inaction led to the origination of the claim or action;

(4) The amount claimed or relief sought; and

(5) All averments of fact necessary to state a cause of action against the state under this subchapter.

(c) If the claim or action is based upon a contract or other instrument in writing, a copy of the contract or instrument in writing shall be attached to the complaint and the copies filed with the director.

(d)(1) The claimant shall state in the complaint whether he or she has received any payment on account of the claim or action and, if so, the amount received.

(2)(A) The claimant also shall state whether another person or business entity has an absolute or contingent interest in his or her claim or action.

(B) If a person or corporation is interested in the claim, the claimant shall state the name and address of that person or corporation having the interest, the nature of the interest, and how and when it was acquired.

(e) If the claimant is an executor, administrator, guardian, or other representative acting under judicial appointment, a duly certified copy of the record of appointment shall be filed with the complaint.

(f)(1) A claimant who is an inmate in the Division of Correction or the Division of Community Correction at the time the claim or action is filed is limited to no more than:



(A) Five (5) pages of written factual allegations and legal argument in his or her complaint; and

(B) Five (5) additional pages of exhibits to accompany his or her complaint.

(2)(A) An inmate filing a claim or action may file a motion to allow him or her to file additional pages of factual allegations, argument, or exhibits in excess of the limitations under subdivision (f)(1) of this section.

(B) A motion filed under this subdivision (f)(2) may be granted only if the commissioners of the Arkansas State Claims Commission find that the inmate needs the additional pages to fully explain his or her claim or action or if the claim or action is sufficiently complex to warrant additional pages.

(3)(A) If an inmate files a claim or action that exceeds the page limitations under this subsection, the commission shall:

(i) Assign the inmate's claim a docket number; and

(ii) Consider the inmate's claim filed, but mail the inmate's complaint and any attached exhibits back to him or her and give the inmate forty-five (45) days to:

(a) Resubmit his or her complaint and any attached exhibits in compliance with this subsection; or

(b) File a motion requesting permission to file a complaint and accompanying exhibits that exceed the page limitations under this subsection.

(B) The forty-five-day time period under this subsection is excludable time in calculating the statute of limitations for the inmate's claim or action.

(C) The commission may dismiss an inmate's complaint without prejudice if the inmate fails to:

(i) Resubmit a complaint and attached exhibits that meet the page limitation requirements of this subsection; or

(ii) File a motion requesting permission to file a complaint and attached exhibits that exceed the page limitation requirements of this subsection.

(D)(i) If the commission grants a motion for a complaint and accompanying exhibits that exceed the page limitation requirements of this subsection, the commission shall set out in the order granting the motion the revised timeline for the inmate to file his or her complaint and accompanying exhibits.

(ii) The commission may set a revised limit on the number of pages an inmate's complaint and accompanying exhibits may be.

**History.** Acts 1949, No. 462, § 3; 1983, No. 470, § 3; A.S.A. 1947, § 13-1403; Acts 2019, No. 785, § 2.

**Amendments.** The 2019 amendment rewrote (a) through (d); and added (f).

**19-10-209. Time for filing.**

The Arkansas State Claims Commission shall not consider or allow a claim or action unless the claim or action has been filed with the Director of the Arkansas State Claims Commission as provided by this subchapter within the period allowed by law for the commencement of an action for the enforcement of the same type of claim or action.

**History.** Acts 1949, No. 462, § 6; 1983, No. 470, § 6; A.S.A. 1947, § 13-1406; Acts 2019, No. 785, § 2.

**Amendments.** The 2019 amendment substituted "The Arkansas State Claims Commission shall not consider or allow a

claim or action unless the claim or action" for "No claim may be considered and allowed by the Arkansas State Claims Commission unless it"; and substituted "claim or action" for "claim against a private person".

**19-10-210. Notice and hearings.**

(a)(1) The Director of the Arkansas State Claims Commission shall notify each claimant and also the head of each state agency against which a claim or action is filed of the time and place set for a hearing on the claim or action, if a hearing on the matter is set by the Arkansas State Claims Commission.

(2) A party to a claim or action is not entitled to a hearing as a matter of law but may request a hearing before the commission.

(b)(1) The commission is not bound by the formal rules of evidence and shall conduct all hearings publicly and in a fair and impartial manner, giving the parties full opportunity for presentation of evidence, cross-examination of witnesses, and argument.

(2) To the extent practicable, the commission shall adopt the procedure used by the circuit courts, and a hearing before the commission shall be conducted in a judicial manner.

(c) Hearings on a motion filed by a party shall be set:

(1) Upon request of one (1) of the parties; and

(2) If the commission finds that oral argument or witness testimony, or both, will benefit the commission in deciding on the motion.

**History.** Acts 1949, No. 462, § 4; 1951, No. 373, § 2; 1983, No. 470, § 4; A.S.A. 1947, § 13-1404; Acts 2005, No. 1962, § 88; 2019, No. 785, § 2.

**Amendments.** The 2019 amendment rewrote (a) and (b); and added (c).

**19-10-211. Appeals of decisions — Jurisdiction — Time periods to file.**

(a)(1) Within forty (40) days after the Arkansas State Claims Commission issues a final order on a claim or action before the commission, a party to the claim or action may file with the commission a:

(A) Notice of appeal of the final order to the General Assembly; or

(B)(i) Motion requesting that the commission reconsider its final order.

(ii)(a) If a motion for reconsideration is denied, a party may file with the commission a notice of appeal of the claim to the General



Assembly within twenty (20) days of entry of the order denying the motion for reconsideration.

(b) Subdivision (a)(1)(B)(ii)(a) of this section applies only if the commission's reconsideration constitutes a final order.

(2) The commission shall advise parties of the right of appeal under this section when the commission notifies the parties of the commission's final order.

(3) The General Assembly has exclusive jurisdiction to hear appeals under this section.

(b)(1) The commission shall timely notify the General Assembly and all parties to the claim or action when a notice of appeal to the General Assembly is filed with the commission.

(2)(A) Notice provided to the General Assembly under subdivision (b)(1) of this section terminates the commission's jurisdiction over the claim or action.

(B) Unless ordered to do so by the General Assembly, the commission is prohibited from doing anything further on the claim or action aside from ordinary ministerial duties.

(3) The commission shall regain jurisdiction over the claim or action if, in consideration of an appeal of a final order, the General Assembly sends the claim or action back to the commission:

(A) For further proceedings consistent with any order of the General Assembly; or

(B) To notify the claimant that the award has been upheld, reversed, or amended.

**History.** Acts 1997, No. 33, § 1; 2019, No. 785, § 2. added "Jurisdiction — Time periods to file" in the section heading; and rewrote the section.

**Amendments.** The 2019 amendment the section.

## 19-10-212. Reports of state agency liability.

(a) When a state agency admits liability to a claim filed with the Arkansas State Claims Commission, the state agency shall file a written report of the claim with the Litigation Reports Oversight Subcommittee of the Legislative Council if the claim:

(1) Involves a contract with the state agency; or

(2) Exceeds fifteen thousand dollars (\$15,000).

(b) The state agency shall include in its report a concise statement of facts with an explanation of the state agency's liability.

(c) The state agency shall file its report within thirty (30) days after the claim or action has been adjudicated and a final order has been issued by the commission.

**History.** Acts 1997, No. 850, § 30; 2005, No. 1962, § 89; 2013, No. 147, § 17; 2013, No. 1131, § 2; 2015, No. 218, § 20; 2015, No. 1258, § 17; 2019, No. 785, § 2. ing; deleted former (a)(1) and (b), and redesignated former (a)(2)-(4) as (a)-(c); and, in (c), inserted "or action", inserted "and a final order has been issued", and substituted "commission" for "Arkansas State Claims Commission".

**Amendments.** The 2019 amendment deleted "Definition" in the section head-

**19-10-213. State agency to pay claim — Employment compensation claims — Director disbursing officer.**

(a)(1) When a claim or action is determined to be a valid claim or action against the state under this chapter and the claim or action is to be paid from funds not in the State Treasury, the Director of the Arkansas State Claims Commission shall notify the state agency against which the claim or action is to be charged of the amount of the claim or action.

(2) Upon receipt of the notification under subdivision (a)(1) of this section, the state agency shall deliver a check to the director who shall deposit the funds as a nonrevenue receipt into the Miscellaneous Revolving Fund from which the director shall disburse the amount of the claim or action to the claimant.

(b)(1) The director shall distribute a warrant for the payment of a valid claim against the state for employment compensation claims in the manner provided by this subsection.

(2) If an employment compensation claim is determined to be a valid claim against the state, the director shall notify the state agency against which the claim is to be charged and the Office of Personnel Management of the amount of the claim.

(3) Upon receipt of the notification under this subsection, the state agency against which the claim is charged shall process the award through the state mechanized payroll system.

(c)(1) The director shall be the disbursing officer for the funds appropriated for expense reimbursements for the Firefighter Benefit Review Panel.

(2) Expense reimbursements under this subsection shall be paid to the panel as certified in writing to the Arkansas State Claims Commission by the Chair of the Firefighter Benefit Review Panel.

(3) The commission may pay expense reimbursements for all unpaid meetings in prior state fiscal years.

**History.** Acts 1997, No. 850, § 33; 2019, No. 746, § 5; 2019, No. 785, § 2.

**Amendments.** The 2019 amendment by No. 746 added "Employment compensation claims — Director disbursing officer" to the section heading; redesignated the former provisions as (a)(1) and (a)(2); substituted "Director" for "Clerk" in (a)(1) and "director" for "clerk" in (a)(2); and added (b) and (c).

The 2019 amendment by No. 785 substituted "State agency" for "Agency" in the section heading; redesignated the former provisions as (a) and (b); in (a) [now (a)(1)], substituted "claim or action" for "claim" throughout, inserted "under this chapter", and substituted "Director" for "Clerk"; in (b) [now (a)(2)], substituted "director" for "clerk" and "claim or action" for "claim"; and made stylistic changes.

**19-10-214. Effect on liens.**

(a) Arkansas State Claims Commission awards are state property and therefore:

- (1) Liens do not attach to commission awards; and
- (2) A commission award is not assignable.



(b)(1) If the commission and the General Assembly approve appeals or claims or actions above fifteen thousand dollars (\$15,000) and name as payees, in addition to the claimant, other individuals or entities who would normally have liens in a court of law, other than insurance company subrogation claims, then the commission may deposit the amount approved into the registry of the Pulaski County Circuit Court.

(2) After reasonable notice to the claimant and any named payees, the court shall establish the validity and priority to the moneys upon petition of the claimant or any named payee.

**History.** Acts 1999, No. 685, § 1; 2019, No. 785, § 2.

**Amendments.** The 2019 amendment rewrote (a); redesignated (b) as (b)(1) and (b)(2); in (b)(1), inserted “or actions” and

substituted “fifteen thousand dollars (\$15,000)” for “seven thousand five hundred dollars (\$7,500)”; and made stylistic changes.

### 19-10-215. Restrictions on awards.

(a) With the exception of death and disability benefit claims paid under § 21-5-701 et seq., the Arkansas State Claims Commission shall not pay an award in excess of fifteen thousand dollars (\$15,000).

(b) If an award is greater than fifteen thousand dollars (\$15,000), the commission shall refer the claim or action to the General Assembly for approval and, if approved, an appropriation.

**History.** Acts 1999, No. 1141, § 4; 2003, No. 926, § 4; 2011, No. 320, § 16; 2013, No. 147, § 11; 2019, No. 785, § 2.

**Amendments.** The 2019 amendment substituted “the Arkansas State Claims Commission shall not pay an award” for

“no award may be paid” in (a); and, in (b), substituted “an award” for “the award” and “the commission shall refer the claim or action” for “the claim shall be referred”, and inserted “approval and, if approved”.

### 19-10-216. Final orders — Findings of fact and conclusions of law required.

(a)(1) When the Arkansas State Claims Commission dismisses a claim or action with a final order or issues a final order of a claim or action on the merits, the commission shall set forth specific findings of fact and conclusions of law to support its decision.

(2) Citations to a party’s motion or argument do not fulfill the requirements of this subsection unless otherwise supported by an explanation, with particularity, as to why the party’s motion or argument is determinative to the outcome of the claim or action.

(3) When the commission bases its decision on a specific rule of civil procedure, rule of evidence, statute, or controlling appellate court decision, the commission shall cite the rule, statute, or appellate court decision.

(4) The General Assembly shall not accept a claim or action on appeal when the claim or action has as its final adjudication findings of fact and conclusions of law that do not comply with this section.

(b) Failure to comply with this section shall result in the General Assembly's sending the claim or action back to the commission for further action until the requirements of subsection (a) of this section are met.

(c) A claim or action filed by a person who at the time of filing is an inmate of the Division of Correction is exempted from the requirements of this section.

(d) The findings of fact and conclusions of law contained in a final order under this section are presumed to be correct for the purposes of review by or appeal to the General Assembly.

**History.** Acts 2015, No. 220, § 1; 2019, No. 785, § 2; 2019, No. 910, § 994.

**Amendments.** The 2019 amendment by No. 785 substituted "Final orders" for "Commission decisions" in the section heading; rewrote (a); in (b), inserted "or

action", and substituted "further action" for "reconsideration"; inserted "or action" in (c); and added (d).

The 2019 amendment by No. 910 substituted "Division of Correction" for "Department of Correction" in (c).

### **19-10-217. Motions — Grounds required to preserve for appeal.**

(a) If the Arkansas State Claims Commission denies a motion, the party whose interests were adversely affected by the commission's denial may appeal the denial under § 19-10-211 so long as the legal issue or factual issue in dispute was preserved for appeal with a specific ruling, in writing, by the commission.

(b)(1)(A) It is the responsibility of the party whose interests were adversely affected by the commission's ruling on the motion to ask the commission to file a written order denying the motion if the commission had previously denied the motion and has not already filed a written order on the motion before the commission issues its final order.

(B) If a party requests that the commission file a written order denying a motion under this subsection, the commission shall do so before issuing a final order.

(2) If the basis of a ground for appeal by a party is that a motion was erroneously granted, a filed written order by the commission is not necessary.

**History.** Acts 2019, No. 785, § 2.

### **19-10-218. Interlocutory appeals prohibited.**

(a) A party shall not file, and the Arkansas State Claims Commission shall not entertain, an interlocutory appeal of a legal issue.

(b)(1) The Director of the Arkansas State Claims Commission shall reject an interlocutory motion.

(2) An interlocutory motion shall not be included in the record of the case.

(c) All legal issues or factual issues in dispute that have been raised and addressed by the commission may be included in a party's appeal of the commission's final order.



**History.** Acts 2019, No. 785, § 2.

### **19-10-219. Small claims adjudication.**

(a)(1) The Arkansas State Claims Commission may establish a small claims adjudication process for claims or actions seeking one thousand dollars (\$1,000) or less.

(2) The small claims adjudication process shall provide that claims or actions be given docket priority, and the use of informal discovery, hearings utilizing teleconferencing or other off-site communications technology, and relaxed procedural rules are encouraged to facilitate efficient and timely resolution.

(b)(1) A claim or action seeking one thousand dollars (\$1,000) or less may be:

(A) Assigned to be heard by one (1) commissioner of the commission; and

(B) Decided by the commissioner on the basis of the pleadings alone.

(2) If a claimant objects to having the claim or action heard as a small claims adjudication under this section, the claimant may request that the claim or action be heard in the usual manner for similar claims or actions.

(c) Before a proposed written final order of a small claims adjudication under this section is considered final for the purposes of award or appeal, the proposed written final order shall be reviewed by a panel consisting of:

(1) The commissioner of the commission assigned to the claim or action; and

(2) Two (2) other commissioners of the commission.

**History.** Acts 2019, No. 785, § 2.

### **19-10-220. Special masters authorized.**

(a) The Arkansas State Claims Commission may appoint a special master with specialized knowledge and skill to assist the commission in achieving a more timely resolution of complex litigation arising from a claim or action.

(b)(1) All or part of a special master's findings may be included as part of or in addition to a commission's final order.

(2) The special master's findings, if disputed by a party, may be raised on appeal.

**History.** Acts 2019, No. 785, § 2.

### **19-10-221. Abuse of process by litigants.**

An inmate in the Division of Correction or the Division of Community Correction who has filed more than three (3) unsuccessful claims or actions under this subchapter within a period of two (2) years may have

his or her subsequent claims or motions dismissed by the Arkansas State Claims Commission upon receipt as abuse of process, for one (1) year from the date of dismissal of the inmate's third unsuccessful claim.

**History.** Acts 2019, No. 785, § 2.

### **19-10-222. Corporate or business entity to be represented by attorney.**

(a) Except as provided in subsection (b) of this section, a corporate or business entity created under the laws of this state or another state shall be represented at all times in a claim or action under this subchapter by an attorney licensed to practice law in this state.

(b) Representation by an attorney licensed to practice law in this state is not required under this section if:

(1) The amount of money at issue is less than two thousand dollars (\$2,000); or

(2) The claim is:

(A) An uncontested claim for the reissuance of a warrant; or

(B) For the refund of a liquor license permit application fee.

**History.** Acts 2019, No. 785, § 2; 2021, No. 494, § 1. visions of the section as (a); and added "Except as provided in subsection (b) of this section" in (a).

**Amendments.** The 2021 amendment added (b) and designated the former pro-

### **19-10-223. Failure to exhaust available state or administrative remedy.**

The Arkansas State Claims Commission may dismiss a claim or action without prejudice on the commission's own motion if the claimant has failed to submit with the claimant's initial complaint or claim filing documentation that the claimant has exhausted all available state or administrative remedies.

**History.** Acts 2019, No. 785, § 2.

## **SUBCHAPTER 3 — EFFECT OF INSURANCE COVERAGE**

### **19-10-305. Immunity of state officers and employees — Status as employee.**

## **RESEARCH REFERENCES**

**ALR.** Propriety of and Liability Arising from Police Use of Precision Immobilization Technique or Similar Act. 42 A.L.R.7th Art. 2 (2019).



## CASE NOTES

## ANALYSIS

Applicability.

Employees Held Immune.

Excessive Force.

Malicious Conduct.

### Applicability.

Circuit court properly concluded that the supervisor was not entitled to statutory immunity on the employee's federal civil rights claims as immunity under state law was not dispositive, and the supervisor had not made a cogent legal argument or cited relevant authority. *Ark. State Med. Bd. v. Byers*, 2017 Ark. 213, 521 S.W.3d 459 (2017).

### Employees Held Immune.

Circuit court did not err in finding that an auxiliary police officer's state law claims, including the slander and conspiracy claims, were barred by statutory immunity because the officer failed to plead sufficient facts to support the claim of malicious intent by the sergeant at arms at the Arkansas State Senate. *Monk v. Rogers*, 2021 Ark. App. 148 (2021).

### Excessive Force.

In an excessive-force case, the trial court erred in denying summary judgment with respect to the son's tort claims against the police chief, as the son did not specifically allege facts supporting the claims as to the police chief, but there was no error in the trial court's denial of summary judgment regarding the son's claims against the officer, as well as the father's claims against the officer and the police chief, because material issues of fact existed regarding the reasonableness of their conduct and therefore they were not entitled to summary judgment on the basis of qualified immunity. *Faughn v. Kennedy*, 2019 Ark. App. 570, 590 S.W.3d 188 (2019).

### Malicious Conduct.

Statutory immunity under this section barred the employee's claims under the Arkansas Civil Rights Act of 1993, § 16-123-101 et seq., against the supervisor in her individual capacity where the employee's bare allegation of willful and wanton conduct was not enough to demonstrate malice. *Ark. State Med. Bd. v. Byers*, 2017 Ark. 213, 521 S.W.3d 459 (2017).

Former employee's individual capacity claims against a warden of a state correctional facility alleging she had been discharged due to gender and racial discrimination should have been dismissed where the complaint offered the bare assertion that she performed her job satisfactorily without factual support, failed to allege the circumstances leading up to her termination or how she was "similarly situated" to the white male employees, and failed to show that the warden was the decisionmaker for the whites and males she pointed to. In the context of statutory immunity, the employee failed to allege that the warden acted maliciously. *Banks v. Jones*, 2019 Ark. 204, 575 S.W.3d 111 (2019).

In a case in which plaintiff was tased, without warning, and arrested, the officer was entitled to immunity as plaintiff failed to produce evidence sufficient to create a triable issue of fact regarding malice; plaintiff had not shown a conscious violation of the law as the officer was authorized to use some force to arrest plaintiff under Arkansas law; and the officer's use of force did not violate clearly established principles of law of which a reasonable person would have knowledge. *Boudoin v. Harsson*, 962 F.3d 1034 (8th Cir. 2020).

**Cited:** *Doe v. Nat'l Healthcare of Newport, Inc.*, 2016 Ark. App. 493 (2016).

## SUBCHAPTER 4 — WORKERS' COMPENSATION COMMISSION

SECTION.

19-10-406. Report of findings.

**19-10-406. Report of findings.**

Upon the allowance or disallowance of any claim, the Workers' Compensation Commission shall immediately transmit a copy of its findings to the Secretary of the Department of Finance and Administration and interested parties.

**History.** Acts 1949, No. 462, § 9; 1951, No. 373, § 5; A.S.A. 1947, § 13-1409; Acts 2019, No. 910, § 3472.

**Amendments.** The 2019 amendment

substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration".

**CHAPTER 11****PURCHASING AND CONTRACTS****SUBCHAPTER.**

1. GENERAL PROVISIONS.
2. ARKANSAS PROCUREMENT LAW.
6. FEDERAL GOVERNMENT SURPLUS PROPERTY.
7. ETHICS.
8. PROCUREMENT OF PROFESSIONAL SERVICES.
9. PURCHASES OF WORK CENTER PRODUCTS AND SERVICES.
10. PROFESSIONAL AND CONSULTANT SERVICES CONTRACTS.
11. PURCHASE OF TECHNOLOGY SYSTEMS.
12. GUARANTEED ENERGY COST SAVINGS ACT.
14. CONSTRUCTION MANAGER-GENERAL CONTRACTOR METHOD OF PROCUREMENT PILOT PROGRAM.

**SUBCHAPTER 1 — GENERAL PROVISIONS****SECTION.**

19-11-102. Use of soybean ink in state printing.

**SECTION.**

19-11-106. [Repealed.]

19-11-107. Data company — Definitions.

**19-11-102. Use of soybean ink in state printing.**

Notwithstanding any law or rule to the contrary, all printing which is chargeable to or which is paid for with funds appropriated wholly or in part by the state, or any state department, division, bureau, board, commission, or agency, shall be printed in soybean ink; provided, however, that the soybean ink is comparable in price to other inks, and that it is equally suitable for use.

**History.** Acts 1991, No. 630, § 1; 2019, No. 315, § 1750.

**Amendments.** The 2019 amendment

substituted "law or rule" for "law, rule, or regulation".

**19-11-106. [Repealed.]**

**Publisher's Notes.** This section, concerning contracting goals for service-disabled veterans, was repealed by Acts 2017,

No. 1080, § 3. The section was derived from Acts 2011, No. 882, § 1. For current related provisions, see § 15-4-301 et seq.



**19-11-107. Data company — Definitions.**

(a) As used in this section:

(1) "Contractor" means a person having a public contract with a public entity for storage services or software services;

(2) "Data" means recorded information, regardless of form or characteristic;

(3) "Data company" means a contractor that provides software and stores data for a public entity or provides storage services for a public entity;

(4) "Entity of the state" means any department, institution of higher education, board, commission, agency, quasi-public organization, official, office, or employee, or any agency, instrumentality, or function thereof;

(5) "Political subdivision of the state" means any county, municipality, quasi-public organization, district, official, office, or employee, or any agency, instrumentality, or function thereof;

(6)(A) "Public contract" means an agreement for the purchase of commodities and services by a public entity.

(B) "Public contract" includes supplemental agreements;

(7) "Public entity" means an entity of the state or a political subdivision of the state or a school;

(8) "School" means any public school district, charter school, or education service cooperative, or any publicly supported entity having supervision over public educational entities; and

(9) "Storage services" means the storage of data of a public entity.

(b)(1) Data that is stored by a data company for a public entity is the property of the public entity.

(2) A data company shall not sell, disclose, or otherwise use the data that is stored for any other purpose without express authorization from the public entity unless the data is:

(A) Considered open; or

(B) Released in the public domain by the public entity.

(3) A data company shall comply with the Arkansas Information Systems Act of 1997, § 25-4-101 et seq.

(c)(1) Upon the expiration or termination of a public contract, a data company shall return all data to the public entity in the format specified in the public contract and in a secure manner.

(2)(A) If the public contract does not specify a format for return of the data, as an express term of the public contract, the data company shall return all data to the public entity in a secure common data format specified by the public entity in writing and delivered to the data company within thirty (30) days after the expiration or termination of the public contract.

(B) Notwithstanding the requirement of a public entity to specify in writing the secure common data format for return of the data and to deliver the data in that format to a data company under subdivision (c)(2)(A) of this section, a data company shall return all data to

a public entity in a usable format within sixty (60) days after the expiration or termination of a public contract unless there is a contractual agreement that specifies what data can be kept, how long the data can be kept, and the purposes for which the data can be used by the data company.

(d)(1) A data company shall provide for the destruction of data still in its possession in a secure manner such that data cannot be reconstructed with backups or duplicate copies of data.

(2) The data company shall provide a certificate of destruction and describe the methods used for destruction.

(3) Destruction of the data shall be effected:

(A) Upon written approval by the public entity that acknowledges destruction of the data; and

(B) No later than six (6) months after the expiration or termination of the public contract.

(e) This section does not prevent a public entity and a data company from negotiating a public contract to determine the type of data format that is acceptable for transferring data from a data company or from negotiating a public contract that expressly contemplates alternate terms with regard to data return or data destruction, which alternate terms shall prevail over this section.

**History.** Acts 2021, No. 763, § 1.

## SUBCHAPTER 2 — ARKANSAS PROCUREMENT LAW

### SECTION.

- 19-11-203. Definitions generally.
- 19-11-204. Definitions concerning source selection and contract formation.
- 19-11-206. Definitions concerning inter-governmental relations.
- 19-11-208. Exemptions.
- 19-11-209. Construction — Preemption of other laws.
- 19-11-213. Federal assistance requirements.
- 19-11-215. Office of State Procurement.
- 19-11-216. State Procurement Director.
- 19-11-217. Powers and duties of State Procurement Director.
- 19-11-218. Assistants and designees — Written delegation orders.
- 19-11-219. Legal counsel — Contract review.
- 19-11-220. Agency procurement officials.
- 19-11-221. Agency procurement official for Division of Correction.
- 19-11-222. Exclusive jurisdiction over procurement — Definitions.
- 19-11-223. Commodities, technical and

### SECTION.

- general services, and professional and consultant services under state contract.
- 19-11-224. Interest and carrying charges.
- 19-11-225. Rules.
- 19-11-226. Recommendations.
- 19-11-227. Statistical data.
- 19-11-229. Competitive sealed bidding — Definition.
- 19-11-230. Competitive sealed proposals — Definition.
- 19-11-232. Proprietary or sole source procurements.
- 19-11-233. Emergency procurements — Definition.
- 19-11-234. Competitive bidding.
- 19-11-235. Responsibility of bidders and offerors.
- 19-11-238. Multiyear contracts.
- 19-11-239. Finality of determinations.
- 19-11-240. Reporting of suspected collusion — Definition.
- 19-11-241. Specifications — Definition.
- 19-11-242. Commodity management rules.



## SECTION.

- 19-11-243. Proceeds from surplus commodities.
- 19-11-244. Resolution of protested solicitations and awards.
- 19-11-245. Debarment or suspension.
- 19-11-246. Resolution of contract and breach of contract controversies.
- 19-11-247. Remedies for unlawful solicitation or award.
- 19-11-248. Finality of administrative determinations.
- 19-11-249. Cooperative purchasing.
- 19-11-251. Intergovernmental use of commodities or services.
- 19-11-252. Rules.
- 19-11-259. Preferences among bidders — Definitions.
- 19-11-260. [Repealed.]
- 19-11-261. Cooperative purchase of paper products for local governments.
- 19-11-264. Submission of contracts with members of General Assembly required.
- 19-11-265. Submission of contracts required — Definition.

## SECTION.

- 19-11-267. Development and use of performance-based contracts — Findings.
- 19-11-268. Vendor performance reporting.
- 19-11-269. Review of information technology plans.
- 19-11-271. Compliance reporting.
- 19-11-273. Procurements for services in designated positions and designated financial and information technology positions.
- 19-11-274. Reporting requirements.
- 19-11-275. Tracking requirements.
- 19-11-276. Compliance.
- 19-11-277. Solicitation conferences.
- 19-11-278. Vendor training and polling.
- 19-11-279. Requests for information — Definition.
- 19-11-280. Training and certification of procurement personnel.
- 19-11-281. Cancellation of contract on entry of final business closure order — Definition.

**A.C.R.C. Notes.** Acts 2019, No. 417, § 11, provided: “Rules.

“(a) When adopting the initial rules required under this act, the State Procurement Director shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

“(1) On or before January 1, 2020; or

“(2) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

“(b) The director shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rules for approval before January 1, 2020.”

Acts 2019, No. 418, § 8, provided: “Rules.

“(a) When adopting the initial rules required under this act, the State Procurement Director shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

“(1) On or before January 1, 2020; or

“(2) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon

as practicable after approval under § 10-3-309.

“(b) The director shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rules for approval before January 1, 2020.”

Acts 2019, No. 419, § 14, provided: “Rules.

“(a) When adopting the initial rules required under this act, the State Procurement Director shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

“(1) On or before January 1, 2021; or

“(2) If approval under § 10-3-309 has not occurred by January 1, 2021, as soon as practicable after approval under § 10-3-309.

“(b) The director shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2021, so that the Legislative Council may consider the rules for approval before January 1, 2021.”

Acts 2019, No. 420, § 5, provided: “Rules.

“(a) When adopting the initial rules required under this act, the State Procurement Director shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

“(1) On or before January 1, 2020; or

“(2) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

“(b) The director shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rules for approval before January 1, 2020.”

Acts 2019, No. 421, § 4, provided: “Rules.

“(a) When adopting the initial rules required under this act, the State Procurement Director shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

“(1) On or before January 1, 2020; or

“(2) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon as practicable after approval under § 10-3-309.

“(b) The director shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rules for approval before January 1, 2020.”

**Effective Dates.** Acts 2017, No. 178, § 11: July 1, 2017. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2017 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2017 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2017.”

Acts 2017, No. 179, § 13: July 1, 2017. Emergency clause provided: “It is found

and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2017 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2017 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2017.”

Acts 2019, No. 204, § 5: July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the name change proposed under this act is to enable students interested in the Texarkana campus of the community college to have their ACT testing information sent directly to Texarkana and not to the Hope campus of the community college or to an institution in Texas; that there is confusion regarding where a student should send his or her ACT scores because Texarkana is not currently part of the campus’s formal name; and that this act is necessary in order to change the name of the community college in time for the next fiscal year. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

Acts 2019, No. 866, § 4: Jan. 1, 2020.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the



fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

Acts 2020, No. 129, § 11: July 1, 2020. Emergency clause provided: “It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1,

2020 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2020 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2020.”

### 19-11-203. Definitions generally.

As used in this subchapter:

(1)(A) “Agency procurement official” means any person authorized by a state agency to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this subchapter and the rules promulgated under it.

(B) “Agency procurement official” also includes an authorized representative acting within the limits of authority;

(2) “Business” means any corporation, partnership, individual, sole proprietorship, joint-stock company, joint venture, or any other legal entity;

(3)(A) “Capital improvement” means all lands, buildings, structures, utilities, on-site and off-site improvements, and other appurtenant improvements, existing or future, and all construction, repairs, alterations, and renovations thereof which are undertaken, owned, operated, or otherwise managed by a state agency.

(B) “Capital improvement” shall not include construction and reconstruction of roads and bridges in the state highway system by the State Highway Commission, nor shall “capital improvement” include any building, facility, plant, structure, or other improvement constructed by, or in behalf of, the Arkansas Department of Transportation or the State Highway Commission;

(4)(A) “Commodities” means all personal property, including without limitation:

- (i) Goods, as defined in § 4-2-105;
- (ii) Leases, as defined in § 4-2A-103; and
- (iii) Insurance.

(B) “Commodities” does not include:

- (i) A lease on real property or a permanent interest in real property;
- (ii) Exempt commodities and services; and
- (iii) Capital improvements;

(5)(A) "Contract" means all types of state agreements, regardless of what they may be called, for the purchase of commodities and services and for the disposal of surplus commodities and services not otherwise exempt.

(B)(i) "Contract" includes awards and notices of award, contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type, contracts providing for the issuance of job or task orders, leases, letter contracts, and purchase orders.

(ii) "Contract" also includes supplemental agreements with respect to any of these items.

(iii) "Contract" does not include a partial equity ownership agreement as defined under § 19-11-1301 et seq.;

(6) "Contract modification" means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual action of the parties to the contract;

(7) "Contractor" means any person having a contract with a state agency;

(8) "Data" means recorded information, regardless of form or characteristic;

(9) "Debarment" means the disqualification of a person to receive invitations for bids or requests for proposals or the award of a contract by the state for a specified period of time commensurate with the seriousness of the offense or the failure or the inadequacy of performance;

(10) "Designee" means a duly authorized representative of a person holding a superior position;

(11) "Electronic" means electrical, digital, magnetic, optical, or any other similar technology;

(12) "Employee" means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing personal services for any agency;

(13) "Exempt agencies" means the constitutional departments of the state, the elected constitutional offices of the state, the General Assembly, including the Legislative Council and the Legislative Joint Auditing Committee and supporting agencies and bureaus thereof, the Supreme Court, the Court of Appeals, circuit courts, prosecuting attorneys, and the Administrative Office of the Courts;

(14) "Exempt commodities and services" means:

(A) Advertising in newspapers, periodicals, and related publications and on television, radio, billboards, and electronic media;

(B) Animals procured for medical research;

(C)(i) Commodities and services for use in research, education, and treatment for the diagnosis, cure, and prevention of disease, which may be procured with administrative approval through a group purchasing entity serving other public health institutions when substantial savings are available.



(ii) A report shall be filed annually with Arkansas Legislative Audit reflecting the justification of and the estimated savings accruing due to the use of this exemption;

(D)(i) Commodities procured for resale in cafeterias, commissaries, bookstores, gift shops, canteens, and other similar establishments.

(ii) However, these commodities procured shall not be sold or transferred to any agency with the intent of circumventing applicable procurement procedures;

(E)(i) Contracts awarded by agencies for the construction of buildings and facilities and for major repairs.

(ii) These contract exemptions shall not extend to the procurement of any commodities not otherwise exempt that are to be furnished by the agency under any such contract;

(F) Contracts awarded by the Arkansas Department of Transportation for the construction, reconstruction, and maintenance of roads and bridges in the state highway system and for the county, rural road aid, and city street aid programs;

(G)(i) Farm products procured or sold by a state agency having an agency procurement official.

(ii) The current trade customs with respect to the procurement or sale of cotton, cotton seed, rice, and other farm products shall be followed when it is necessary to obtain the best price for the commodities procured or sold;

(H) Fees, including medical fees and physician fees;

(I) Foster care maintenance services provided by foster family homes or a community provider that is licensed as a family style residential home or that provides a family home setting approved by the Division of Children and Family Services for children whose placement and care are the responsibility of the Division of Children and Family Services;

(J) Freight and storage charges and demurrage;

(K) Licenses required prior to performance of services;

(L)(i) Livestock procured by an agency having an official experienced in selection and procurement of livestock.

(ii) Such procurement will be reported to the State Procurement Director, giving details of the purchase;

(M) Livestock procured for breeding, research, or experimental purposes;

(N) Maintenance on office machines and technical equipment;

(O) Medical items specifically requested by a physician for treatment or diagnosis of patients in his or her care, including prosthetic devices, surgical instruments, heart valves, pacemakers, radioisotopes, and catheters;

(P) Membership in professional, trade, and other similar associations;

(Q) Perishable foodstuffs for immediate use or processing;

(R) Postage;

(S) Published books, manuals, maps, periodicals, films, technical pamphlets, and copyrighted educational aids for use in libraries and

for other informational or instructional purposes in instances in which other applicable law does not provide a restrictive means for the acquisition of these materials;

(T) Services of visiting speakers, lecturers, and performing artists;

(U) Taxes;

(V) Travel expense items such as room and board and transportation charges;

(W) Utility services or equipment that is defined, recognized, and regulated by the Arkansas Public Service Commission as a monopoly offering;

(X) Works of art for museum and public display;

(Y) Capital improvements valued at less than the amount stated in § 22-9-203, subject to minimum standards and criteria of the Building Authority Division;

(Z) Services related to work force development, incumbent work force training, or specialized business or industry training;

(AA) The following commodities and services relating to proprietary software after the initial procurement:

(i) Technical support incidental to supporting the continuous operation of proprietary software;

(ii) Renewals;

(iii) Additional copies; and

(iv) License upgrades;

(BB) Commodities and raw materials purchased by Arkansas Correctional Industries intended for use in goods for resale;

(CC) Commodities purchased by the Division of Correction for crop production, including without limitation fertilizers, seed, seedlings, and agricultural-related chemicals;

(DD) Repair services for hidden or unknown damages to machinery already purchased; and

(EE) Commodities and services purchased by an academic medical center using revenue derived from and used for patient care and hospital enterprises;

(15)(A)(i) "Grant" means the furnishing by the state of assistance, whether financial or otherwise, to any person to support a program authorized by law.

(ii) "Grant" does not include an award the primary purpose of which is to procure an end product, whether in the form of commodities or services.

(B) A contract resulting from such an award is not a grant but a procurement contract;

(16) "May" means the permissive;

(17) "Paper product" means any item manufactured from paper or paperboard;

(18) "Person" means any business, individual, union, committee, club, or other organization or group of individuals;

(19) "Political subdivisions" means counties, municipalities, and school districts;



(20)(A) "Procurement" means the buying, purchasing, renting, leasing, or otherwise obtaining of any commodities or services.

(B) "Procurement" also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection and solicitation of sources, preparation and award of contract, disposal of commodities, and all phases of contract administration;

(21) "Procurement agency" means any state agency that is authorized by this subchapter, by implementing rules, or by way of delegation from the State Procurement Director to contract on its own behalf rather than through the central contracting authority of the State Procurement Director;

(22)(A) "Procurement agent" means any person authorized by a state agency not having an agency procurement official to enter into and administer contracts and make written determinations and findings with respect to contracts, in accordance with procedures prescribed by this subchapter.

(B) "Procurement agent" also includes an authorized representative acting within the limits of authority;

(23)(A) "Public funds" means all state-appropriated and cash funds of state agencies, as defined by applicable law or official ruling.

(B) Without necessarily being limited thereto, "public funds" does not include:

(i) Grants, donations, research contracts, and revenues derived from self-supporting enterprises that are not operated as a primary function of the agency, no part of which funds are deposited into the State Treasury; and

(ii) Revenue derived from patient care and self-supporting hospital enterprises of an academic medical center;

(24) "Public notice" means the distribution or dissemination of information to interested parties using methods that are reasonably available. Such methods will often include publication in newspapers of general circulation, electronic or paper mailing lists, and websites designated by the State of Arkansas and maintained for that purpose;

(25)(A) "Purchase request" means that document, written or electronic, in which a using agency requests that a contract be obtained for a specified need.

(B) "Purchase request" may include, but is not limited to, the technical description of the requested item, delivery schedule, transportation, criteria for evaluation of solicitees, suggested sources of supply, and information supplied for the making of any written or electronic determination and finding required by this subchapter;

(26) "Recycled paper" means paper which contains recycled fiber in a proportion specified by the State Procurement Director;

(27)(A) "Services" means the furnishing of labor, time, or effort by a contractor that does not produce tangible commodities.

(B) "Services" includes without limitation:

(i) Consulting services;

- (ii) Personal services;
- (iii) Professional services;
- (iv) Technical and general services; and
- (v) The furnishing of labor, time, or effort by a contractor for the generation, customization, configuration, or development of software and other intangible property other than technical support incidental to the procurement of proprietary software.

(C) "Services" does not include employment agreements, collective bargaining agreements, exempt commodities and services, or architectural or engineering contracts requiring approval of the Building Authority Division or the Division of Higher Education;

(28) "Shall" means the imperative;

(29) "Signature" means a manual, an electronic, or a digital method executed or adopted by a party with the intent to be bound by or to authenticate a record which is:

- (A) Unique to the person using it;
- (B) Capable of verification;
- (C) Under the sole control of the person using it; and
- (D) Linked to data in such a manner that if the data are changed, the electronic signature is invalidated;

(30)(A) "State agency" means any agency, institution, authority, department, board, commission, bureau, council, or other agency of the state supported by appropriation of state or federal funds, except an exempt agency pursuant to subdivision (13) of this section.

(B) "State agency" includes an exempt agency when any agency or exempt agency procures any item subject to Arkansas Constitution, Amendment 54;

(31)(A) "State contract" means a contract for the procurement of commodities or services in volume, awarded by the State Procurement Director.

(B) The contract may apply to all or part of the state;

(32) "State Procurement Director" means the person holding the position created in § 19-11-216, as the head of the Office of State Procurement;

(33) "Suspension" means the disqualification of a person to receive invitations for bids, requests for proposals, or the award of a contract by the state for a temporary period pending the completion of an investigation and any legal proceedings that may ensue because a person is suspected upon probable cause of engaging in criminal, fraudulent, or seriously improper conduct or failure or inadequacy of performance, which may lead to debarment;

(34)(A) "Technical and general services" means:

- (i) Work accomplished by skilled individuals involving time, labor, and a degree of expertise, in which performance is evaluated based upon the quality of the work and the results produced;

- (ii) Work performed to meet a demand, including, but not limited to, work of a recurring nature that does not necessarily require special skills or extensive training; or



(iii) The furnishing of labor, time, or effort by a contractor or vendor, not involving the delivery of any specific end product other than reports that are incidental to the required performance.

(B) "Technical and general services" shall not be construed to include the procurement of professional services under § 19-11-801 et seq.;

(35) "Using agency" means any state agency which utilizes any commodities or services purchased under this subchapter; and

(36) "Written" or "in writing" means the product of any method of forming characters on paper, other materials, or viewable screens, which can be read, retrieved, and reproduced, including information that is electronically transmitted and stored.

**History.** Acts 1979, No. 482, § 12; 1981, No. 600, §§ 1-5; A.S.A. 1947, § 14-240; Acts 1987, No. 983, § 1; 1991, No. 128, § 1; 1991, No. 749, § 2; 1991, No. 1018, § 1; 1999, No. 1398, § 27; 2001, No. 961, § 7; 2001 No. 1237, § 2; 2001 No. 1568, § 1; 2003, No. 487, § 1; 2003, No. 1315, §§ 4-7; 2005, No. 1680, § 1; 2007, No. 478, § 2; 2009, No. 251, § 28; 2009, No. 605, § 20; 2009, No. 606, § 20; 2009, No. 1211, § 1; 2011, No. 794, § 1; 2013, No. 453, § 1; 2015, No. 218, § 21; 2015, No. 557, § 3; 2017, No. 609, §§ 1, 2; 2017, No. 707, § 58; 2017, No. 893, § 2; 2019, No. 315, §§ 1751, 1752; 2019, No. 417, §§ 1-3; 2019, No. 658, § 3; 2019, No. 910, §§ 6102, 6103.

**A.C.R.C. Notes.** Acts 2017, No. 893, § 1, provided: "Legislative findings and intent.

"(a) The General Assembly acknowledges that there are not enough foster homes for every child in foster care to be placed in a foster home in his or her community;

"(b) The General Assembly recognizes the need for every child in foster care to be placed in a family setting in his or her community and with his or her community;

"(c) Biological families and children would be better served if children who are removed from their home could remain in their home community instead of being placed outside of their home community;

"(d) Placing a child who has been removed from his or her home in a family setting within the community and with his or her siblings would reduce the hardship on the child, his or her family, and family service workers who would no longer have to travel outside of the commu-

nity for visitation or appointments with the child; and

"(e) It is the intent of the General Assembly to support the Division of Children and Family Services of the Department of Human Services to allow community providers to be compensated through a standard board payment when the provider provides a home with house parents."

**Amendments.** The 2017 amendment by No. 609 added (14)(EE); redesignated (23)(B) as the introductory language of (23)(B) and (23)(B)(i); added (23)(B)(ii); and made stylistic changes.

The 2017 amendment by No. 707 substituted "Department of Transportation" for "State Highway and Transportation Department" in (3)(B).

The 2017 amendment by No. 893 inserted "or a community provider that is licensed as a family style residential home or that provides a family home setting" in (14)(I).

The 2019 amendment by No. 315 substituted "rules" for "regulations" in (1)(A) and (21).

The 2019 amendment by No. 417 rewrote (4); added "incidental to supporting the continuous operation of proprietary software" in (14)(AA)(i); and rewrote (27).

The 2019 amendment by No. 658 substituted "the amount stated in § 22-9-203" for "twenty thousand dollars (\$20,000)" in (14)(Y).

The 2019 amendment by No. 910 deleted "of the Department of Finance and Administration" following "Building Authority Division" in (14)(Y) and (27)(B) [now (27)(C)]; and substituted "Division of Higher Education" for "higher education" in (27)(B) [now (27)(C)].

**19-11-204. Definitions concerning source selection and contract formation.**

As used in this subchapter:

(1) "Competitive bidding" means the same as defined in § 19-11-234(a);

(2) "Competitive sealed bidding" means the same as defined in § 19-11-229(a);

(3) "Competitive sealed proposals" means the same as defined in § 19-11-230(a);

(4) "Emergency procurement" means the acquisition of commodities or services, which if not immediately initiated, will endanger human life or health, state property, or the functional capability of a state agency;

(5) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(A) Is regularly maintained by a manufacturer or contractor;

(B) Is either published or otherwise available for inspection by customers; and

(C) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for the commodities or services involved;

(6) "Invitation for bids" means all documents or electronic media, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in § 19-11-229, which refers to competitive sealed bidding;

(7) "Multiple award contracts" means a method of procurement whereby an indefinite quantity contract is awarded to more than one (1) supplier for furnishing a like item or category of items;

(8) "Purchase description" means specifications or any other document or electronic media describing the commodities or services to be procured;

(9) "Request for proposals" means all documents or electronic media, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in § 19-11-230, which refers to competitive sealed proposals, § 19-11-231, which refers to small procurements, § 19-11-232, which refers to proprietary or sole source procurements, § 19-11-233, which refers to emergency procurements, or § 19-11-234, which refers to competitive bidding;

(10)(A) "Request for qualifications" means a solicitation document requiring submittal of qualifications or specialized expertise in response to the scope of work or services required and does not require pricing.

(B) Other than as provided in § 19-11-801 et seq., the request for qualifications process may only be used when, under rules promulgated by the State Procurement Director, the director determines in writing that the request for qualifications process is warranted;



(11) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance;

(12) "Responsive bidder" means a person who has submitted a bid under § 19-11-229, which refers to competitive sealed bidding, which conforms in all material respects to the invitation for bids, including the specifications set forth in the invitation; and

(13)(A)(i) "Small procurements" means a procurement not exceeding a purchase price of twenty thousand dollars (\$20,000).

(ii) Small procurements may be procured without seeking competitive bids or competitive sealed bids.

(iii) However, competition should be used to the maximum extent practicable.

(B) Items under state contract are excluded.

**History.** Acts 1979, No. 482, § 27; 1981, No. 600, § 11; A.S.A. 1947, § 14-252; Acts 1987, No. 540, § 1; 1995, No. 317, § 1; 1995, No. 340, § 1; 1995, No. 428, § 1; 1995, No. 507, § 1; 2001, No. 1237, § 3; 2007, No. 478, § 3; 2013, No. 1189, § 1; 2017, No. 1004, § 1.

redesignated part of former (13)(A)(i) as (13)(A)(ii), and redesignated former (13)(A)(ii) as (13)(A)(iii); in (13)(A)(i), substituted "twenty thousand dollars (\$20,000)" for "ten thousand dollars (\$10,000)"; substituted "Small procurements" for "Small purchases" in present (13)(A)(ii); and made a stylistic change.

**Amendments.** The 2017 amendment

## 19-11-206. Definitions concerning intergovernmental relations.

As used in this subchapter:

(1) "Cooperative purchasing agreement" means an agreement entered into as the result of a procurement conducted by, or on behalf of, more than one (1) public procurement unit or by a public procurement unit with an external procurement activity;

(2)(A) "External procurement activity" means any buying organization not located in this state which, if located in this state, would qualify as a public procurement unit.

(B) An agency of the federal government is an external procurement activity;

(3) "Local public procurement unit" means:

(A) Any county, city, town, state agency, and any other subdivision of the state or public agency thereof;

(B) Any fire protection district;

(C) Any regional water distribution district;

(D) Any rural development authority;

(E) Any public authority;

(F) Any public educational, health, or other institution;

(G) Any nonprofit corporation during the time that it contracts with the Department of Human Services to provide services to individuals with developmental disabilities or for transportation services, so long as the contract exceeds seventy-five thousand dollars (\$75,000) per year;

(H) Any nonprofit corporation providing fire protection services to a rural area or providing drinking water to the public in a rural area; and

(I) To the extent not prohibited by law, any other entity that expends public funds for the acquisition or leasing of commodities and services;

(4) "Public procurement unit" means either a local public procurement unit or a state public procurement unit; and

(5) "State public procurement unit" means the Office of State Procurement and any other procurement agency of this state.

**History.** Acts 1979, No. 482, § 64; A.S.A. 1947, § 14-281; Acts 1989, No. 57, § 1; 1997, No. 872, § 1; 1999, No. 41, § 1; 2001, No. 1237, § 4; 2007, No. 478, § 4; 2019, No. 421, § 1.

**Amendments.** The 2019 amendment substituted "Cooperative purchasing agreement" means an agreement entered into as the result of a" for "Cooperative procurement" means" in (1).

### 19-11-208. Exemptions.

Commodities and services need not be procured through the Office of State Procurement, if procured by the out-of-state offices of state agencies for that out-of-state office's use but shall, nevertheless, be procured subject to the requirements of this subchapter and the state procurement rules.

**History.** Acts 1979, No. 482, § 18; 1981, No. 600, § 6; A.S.A. 1947, § 14-246; Acts 2001, No. 1237, § 5; 2019, No. 315, § 1753.

**Amendments.** The 2019 amendment substituted "rules" for "regulations".

### 19-11-209. Construction — Preemption of other laws.

This subchapter shall:

(1) Be construed liberally and applied to promote its underlying purposes and policies; and

(2) Preempt any conflicting state statutes and principles of common law or equity.

**History.** Acts 1979, No. 482, § 2; A.S.A. 1947, § 14-233.1; Acts 2021, No. 793, § 1.  
**Amendments.** The 2021 amendment added "Preemption of other laws" in the

section heading; inserted the (1) designation; inserted "liberally" in (1); and added (2).

### 19-11-213. Federal assistance requirements.

If federal assistance requirements or federal contract requirements conflict with this subchapter or rules promulgated under it, nothing in this subchapter or its rules shall prevent a state agency or political subdivision from complying with the terms and conditions of the federal assistance requirements or the federal contract requirements.



**History.** Acts 1979, No. 482, § 10; A.S.A. 1947, § 14-238; Acts 2015, No. 147, § 1; 2019, No. 315, § 1754. **Amendments.** The 2019 amendment substituted “rules” for “regulations” twice.

### 19-11-215. Office of State Procurement.

(a) There is created within the Department of Transformation and Shared Services the Office of State Procurement to be administered by the State Procurement Director.

(b)(1) The Office of State Procurement shall be subject to the supervision and management of the Secretary of the Department of Transformation and Shared Services.

(2) The rules authorized in this subchapter shall be approved by the secretary prior to the filing of the rules in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

**History.** Acts 1979, No. 482, § 13; A.S.A. 1947, § 14-241; Acts 2001, No. 1237, § 7; 2019, No. 315, § 1755; 2019, No. 910, § 6104.

**Amendments.** The 2019 amendment by No. 315 deleted “and regulations” following “rules” twice in (b)(2).

The 2019 amendment by No. 910 substituted “Department of Transformation and Shared Services the” for “Department

of Finance and Administration an” in (a); in (b)(1), substituted “Office of State Procurement” for “office” and “Secretary of the Department of Transformation and Shared Services” for “Director of the Department of Finance and Administration”; and substituted “secretary” for “Director of the Department of Finance and Administration” in (b)(2).

### 19-11-216. State Procurement Director.

(a)(1) The executive head of the Office of State Procurement is designated as the administrator of the Office of State Procurement, and as such, he or she shall be known and designated as the “State Procurement Director”.

(2) The State Procurement Director shall be appointed by the Secretary of the Department of Transformation and Shared Services.

(b) The State Procurement Director shall be at least thirty (30) years of age, of good moral character, and of demonstrated ability or capacity in the field of purchasing commodities and services.

**History.** Acts 1979, No. 482, § 14; 1983, No. 517, § 1; A.S.A. 1947, § 14-242; Acts 2001, No. 1237, § 8; 2007, No. 478, § 5; 2019, No. 910, § 6105.

substituted “Secretary of the Department of Transformation and Shared Services” for “Director of the Department of Finance and Administration” in (a)(2).

**Amendments.** The 2019 amendment

### 19-11-217. Powers and duties of State Procurement Director.

(a) The State Procurement Director shall serve as the principal procurement officer of the state.

(b)(1) Except as otherwise provided in this subchapter and upon the approval of the Secretary of the Department of Transformation and Shared Services, the State Procurement Director shall have the authority and responsibility to promulgate rules consistent with this subchapter.

(2) In addition, consistent with the provisions of this subchapter, the director may adopt rules governing the internal procedures of the Office of State Procurement.

(c) Except as otherwise specifically provided in this subchapter, the director, within the limitations of this subchapter and the rules promulgated under authority of this subchapter:

(1) Shall procure or supervise the procurement of all commodities and services for each state agency not having an agency procurement official and, when requested to do so by such an official, procure commodities and services not otherwise under state contract;

(2)(A) Shall develop and implement a plan for all state agencies acquiring vehicles that will reduce the overall annual petroleum consumption of those state agencies by at least ten percent (10%) by January 1, 2009, through measures that include:

(i) The use of alternative fuels, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005;

(ii) The acquisition of vehicles with higher fuel economy, such as a hybrid vehicle operating on electricity and gasoline or diesel or bio-diesel fuel; and

(iii) The substitution of cars for light trucks.

(B)(i) By January 30 of each year, the director shall submit to the Legislative Council his or her report evaluating the progress of the plan toward achieving the goal set in subdivision (c)(2)(A) of this section.

(ii) The report shall include:

(a) The number and type of alternative fueled vehicles, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005, procured;

(b) The total number of alternative fueled vehicles used by each state agency;

(c) The difference between the cost of the purchase, maintenance, and operation of alternative fueled vehicles and comparable conventionally fueled motor vehicles, as defined by 42 U.S.C. § 13211, as it existed on January 1, 2005;

(d) An evaluation of the plan's success; and

(e) Suggestions for modifying the plan;

(3) Shall manage and establish internal procedures for the office;

(4) Shall sell, trade, or otherwise dispose of surplus commodities belonging to the state;

(5) May establish and maintain programs for the inspection, testing, and acceptance of commodities and services;

(6) Shall establish and manage a list of vendors desiring written notice of invitations for bid;

(7) May establish, by rule, a fee for receiving a written or electronic notice of invitations for bid;

(8) Shall ensure compliance with this subchapter and implementing rules by reviewing and monitoring procurements conducted by any designee, department, agency, or official delegated authority under this subchapter;



(9) Shall create a roster of expiring contracts entered into by a state agency for which there is no new requisition;

(10) Shall analyze information captured in state systems to measure and track the contract routing process to identify stakeholders that may be contributing to the elongation of the contracting process;

(11) Shall ensure that vendor performance reports are available to and searchable by state agencies;

(12) Shall provide for enhanced training on the drafting of specifications for procurements;

(13) Shall maintain records of bids and proposals that are rejected by the office for failure to adhere to the mandatory requirements of a solicitation; and

(14) Upon the written request of a state agency or an actual or prospective bidder, offeror, or contractor, may declare his or her administrative interpretation of any provision of this subchapter and issue an advisory opinion regarding the construction and application of the provision.

**History.** Acts 1979, No. 482, § 15; A.S.A. 1947, § 14-243; Acts 1991, No. 1018, § 2; 2001, No. 1237, § 9; 2005, No. 2322, § 1; 2019, No. 315, §§ 1756, 1757; 2019, No. 417, § 4; 2019, No. 418, § 1; 2019, No. 419, § 1; 2019, No. 910, § 6106; 2021, No. 793, § 2.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” in (b)(1) and (c)(8); and substituted “rule” for “regulation” in (c)(7).

The 2019 amendment by No. 417 added (c)(9).

The 2019 amendment by No. 418 added (c)(10) and (c)(11).

The 2019 amendment by No. 419 added (c)(12) and (c)(13).

The 2019 amendment by No. 910, in (b)(1), substituted “Secretary of the Department of Transformation and Shared Services” for “Director of the Department of Finance and Administration”, and “rules” for “regulations”.

The 2021 amendment added (c)(14).

## 19-11-218. Assistants and designees — Written delegation orders.

(a) Subject to the provisions of the Uniform Classification and Compensation Act, § 21-5-201 et seq., and the approval of the Secretary of the Department of Transformation and Shared Services, the State Procurement Director may:

(1) Employ and supervise such assistants and other persons as may be necessary;

(2) Fix their compensation as provided by law; and

(3)(A) Delegate authority to designees or to a state agency by issuing a written delegation order, within the limitations of state law and the state procurement rules.

(B) A written delegation order issued under this section shall:

(i) Include an expiration date for the written delegation order;

(ii) Be publicly posted on the official website of the Office of State Procurement;

(iii) Remain in effect under the original terms unless the terms of the written delegation order are modified or rescinded in writing by the director;

(iv) Not be issued for a term that exceeds two (2) years; and

(v) Be narrowly tailored if the written delegation order is based on the type of commodity or service being procured.

(C) The director shall maintain records of each written delegation order issued under this section.

(D) A person who is to be given authority under a written delegation order issued under this section shall complete training on state procurement laws, as provided for in this subchapter and in the rules adopted by the director, before the written delegation order is issued.

(b) The director shall adopt rules to:

(1) Implement the requirements for written delegation orders under this section; and

(2) Outline the procurement training required under this section.

**History.** Acts 1979, No. 482, § 16; A.S.A. 1947, § 14-244; Acts 2001, No. 1237, § 10; 2003, No. 487, § 3; 2019, No. 315, § 1758; 2019, No. 420, § 1; 2019, No. 910, § 6107.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” in (3) [now (a)(3)(A)].

The 2019 amendment by No. 420 added “Written delegation orders” in the section heading; designated the existing provisions as (a); added the (a)(3)(A) designa-

tion; substituted “by issuing a written delegation order” for “as the director may deem appropriate” in (a)(3)(A); added (a)(3)(B)-(D); added (b); and made stylistic changes.

The 2019 amendment by No. 910 inserted “and the approval of the Secretary of the Department of Transformation and Shared Services” in the introductory language [now the introductory language of (a)].

## 19-11-219. Legal counsel — Contract review.

(a) The Attorney General shall act as counsel for the State Procurement Director in preparation of necessary contracts and in all legal matters.

(b)(1) A contract that the director has designated as requiring review shall be reviewed by a person employed as an attorney with a state agency.

(2) The review required under this subsection shall occur before the contract is executed.

(c) The director shall adopt rules to implement this section, including without limitation rules to:

(1) Designate contracts that require review under this section, which may include without limitation contracts that:

(A) Exceed a certain dollar amount;

(B) Modify the standard state terms and conditions; and

(C) Are based on other stated criteria; and

(2) Identify the requirements for the attorneys who may review contracts under this section, including without limitation:



(A) An attorney employed with the Office of State Procurement, an institution of higher education, or the Office of the Attorney General; and

(B) Any other attorney employed by the state and licensed to practice law in Arkansas.

**History.** Acts 1979, No. 482, § 26; added "Contract review" in the section heading; added the (a) designation; and A.S.A. 1947, § 14-251.3; Acts 2001, No. 1237, § 11; 2019, No. 418, § 2. added (b) and (c).

**Amendments.** The 2019 amendment

### 19-11-220. Agency procurement officials.

(a) In addition to any state agency authorized by rule to have an agency procurement official, each of the following state agencies may elect to have such an official for commodities, technical and general services, and professional and consultant services, which are not within the exclusive jurisdiction of the State Procurement Director and which are not under state contract:

- (1) Arkansas Department of Transportation;
- (2) Arkansas State University-Beebe;
- (3) Arkansas State University;
- (4) Arkansas State University System;
- (5) Arkansas Tech University;
- (6) Henderson State University;
- (7) Southern Arkansas University;
- (8) University of Arkansas at Fayetteville;
- (9) University of Arkansas Fund entities;
- (10) University of Arkansas at Little Rock;
- (11) University of Arkansas at Monticello;
- (12) University of Arkansas at Pine Bluff;
- (13) University of Arkansas for Medical Sciences;
- (14) University of Central Arkansas;
- (15) Arkansas State University-Mountain Home;
- (16) Arkansas State University-Newport;
- (17) Black River Technical College;
- (18) Cossatot Community College of the University of Arkansas;
- (19) East Arkansas Community College;
- (20) National Park College;
- (21) Arkansas Northeastern College;
- (22) Arkansas State University Mid-South;
- (23) North Arkansas College;
- (24) Northwest Arkansas Community College;
- (25) Arkansas State University Three Rivers;
- (26) Ozarka College;
- (27) Phillips Community College of the University of Arkansas;
- (28) University of Arkansas Community College at Morrilton;
- (29) University of Arkansas — Pulaski Technical College;
- (30) University of Arkansas Community College at Rich Mountain;

- (31) SAU-Tech;
- (32) Southeast Arkansas College;
- (33) South Arkansas Community College;
- (34) University of Arkansas Community College at Batesville;
- (35) University of Arkansas Community College at Hope-Texarkana;
- (36) University of Arkansas at Fort Smith; and
- (37) Division of Higher Education.

(b)(1) Each official shall manage and establish internal procedures for the procurement office of the state agency authorized to have the official to ensure adequate administrative procedures and controls pursuant to law and the procurement rules.

(2)(A) Approval by the Office of State Procurement of contracts administered by the official shall not be required, unless a determination has been made by the Secretary of the Department of Transformation and Shared Services that administrative procedures and controls are not adequate.

(B)(i) Such a determination shall result in notification by the secretary of the specific deficiencies and the reasons therefor.

(ii) After the notification, approval of contracts by the Office of State Procurement shall be required until the secretary determines that the deficiencies have been corrected.

(c) Except for the promulgation by the director of rules authorized in this subchapter and the letting of state contracts, all rights and practices granted herein to the Office of State Procurement and the director are granted to an official in the administration of contracts for the state agency authorized to have the official.

(d) Nothing in this section is intended to prohibit a state agency from utilizing the Office of State Procurement in the same manner as state agencies not authorized to have officials.

**History.** Acts 1979, No. 482, § 19; 1981, No. 600, §§ 7, 8; A.S.A. 1947, § 14-247; Acts 1991, No. 1018, § 3; 2001, No. 1237, § 12; 2005, No. 1680, § 2; 2009, No. 605, § 21; 2009, No. 606, § 21; 2013, No. 1393, § 8; 2015, No. 218, § 22; 2016, No. 140, § 12; 2016, No. 141, § 12; 2017, No. 178, § 8; 2017, No. 179, § 10; 2017, No. 707, § 59; 2019, No. 204, § 4; 2019, No. 315, §§ 1759-1761; 2019, No. 910, §§ 6108, 6109; 2020, No. 129, § 7.

**Amendments.** The 2017 amendment by No. 178 added "University of Arkansas" preceding "Pulaski Technical College" in (a)(29).

The 2017 amendment by No. 179 substituted "University of Arkansas Community College at Rich Mountain" for "Rich Mountain Community College" in (a)(30).

The 2017 amendment by No. 707 substituted "Department of Transportation"

for "State Highway and Transportation Department" in (a)(1).

The 2019 amendment by No. 204 substituted "University of Arkansas Community College at Hope-Texarkana" for "University of Arkansas Community College at Hope" in (a)(35).

The 2019 amendment by No. 315 substituted "rule" for "regulation" in the introductory language of (a); substituted "rules" for "regulations" in (b)(1); and deleted "and regulations" following "rules" in (c).

The 2019 amendment by No. 910 substituted "Division of Higher Education" for "Department of Higher Education" in (a)(37); substituted "Secretary of the Department of Transformation and Shared Services" for "Director of the Department of Finance and Administration" in (b)(2)(A); and substituted "secretary" for



"Director of the Department of Finance and Administration" in (b)(2)(B)(i) and (b)(2)(B)(ii).

The 2020 amendment substituted "Arkansas State University Three Rivers" for "College of the Ouachitas" in (a)(25).

### **19-11-221. Agency procurement official for Division of Correction.**

(a) In addition to those agencies, institutions, and departments of state government enumerated in § 19-11-220 which may elect to have agency procurement officials for commodities, technical and general services, and professional and consultant services which are not within the exclusive jurisdiction of the State Procurement Director, which are not under state contract, and which are not procured in accordance with § 19-11-230, the Division of Correction and the Division of Community Correction may have such officials for the sole purpose of procuring perishable food items, who shall possess all powers, functions, and duties as authorized for agency procurement officials under this subchapter with respect to perishable food items only.

(b)(1) The officials of the Division of Correction and the Division of Community Correction shall have exclusive authority to procure perishable food items in accordance with applicable administrative procedures and controls established pursuant to this subchapter and the procurement rules.

(2) Except as noted in this subsection and in subsection (c) of this section, the officials of the Division of Correction and the Division of Community Correction shall be subject to all other provisions and requirements of this subchapter and administrative procedures controls and procurement rules provided in or promulgated pursuant to it.

(c)(1)(A) The Board of Corrections, annually, and at more frequent intervals if deemed necessary, shall make studies and determine whether it would be in the best interest of the management of the farm croplands at the farm units or at each of the separate farm units of the Division of Correction to provide for the lease of farm machinery and equipment, or certain items thereof, required for the production of farm crops, or whether it would be in the better interest of the Division of Correction to acquire such items of farm machinery and equipment by purchase.

(B)(i) Upon conclusion of the study, the board, by resolution adopted by a majority of the members of the board at a regular or special meeting, may authorize the agency procurement official for the Division of Correction to advertise for bids for the leasing of farm equipment or for the purchase of the items of farm equipment noted in the resolution.

(ii)(a) No lease of farm equipment shall be for more than two (2) years nor extend beyond June 30 of the fiscal biennium for which current funds have been appropriated for the operation of the Division of Correction.

(b) However, nothing in this section shall prohibit the lease from including provisions, terms, or conditions upon which the lease may

be renewed for an additional period of time, not exceeding two (2) years, at the option of the board.

(2)(A) In the event the board determines to provide for the leasing of farm machinery or equipment necessary in the farming operations of the Division of Correction, the official of the Division of Correction shall be the exclusive purchasing agent for advertising of bids and awarding of contracts for the leases, subject to the approval of the Director of the Division of Correction and the board.

(B) In the advertising for bids and the awarding of contracts, the state laws, procurement procedures, and rules shall be complied with in awarding the contracts.

(C)(i) It shall not be mandatory upon the board to award the contract for the furnishing of farm machinery and equipment under a lease agreement to the lowest bidder, unless the board shall determine that the awarding of the contract to such bidder would be in the best interest of the farming operations of the Division of Correction.

(ii) In that event, the board may award the contract to the bidder whose bid proposal is deemed by the board to be in the better interest of the farming operations of the Division of Correction.

(D) In making this determination the board shall consider, but not be limited by, the following factors:

(i) The type of equipment to be furnished;

(ii) Compatibility of the equipment with the training and experience of the farm managers and employees of the Division of Correction and the experience and skills of the inmates who will be using the equipment;

(iii) Provisions contained in the bid proposal providing for maintenance, repair, and service and upkeep of the equipment during the lease period, availability of the service and repair facilities, and source of replacement or repair parts;

(iv) The age and condition of the equipment to be leased; and

(v) Such other factors as the board deems essential to performance under the contract and dependability and reliability of the equipment to be furnished during the period of the lease.

(3)(A)(i) In determining the items of farm machinery and equipment to be acquired by purchase, the board may designate, if the board determines it to be within the better interest of the management of farm croplands of the Division of Correction, those items of farm machinery and equipment to be purchased.

(ii) The board may restrict the bid to equipment produced by no fewer than two (2) manufacturers of each item of equipment.

(B) In making this determination, the board shall include, but not be limited to, a consideration of the following factors:

(i) The types of farm machinery equipment now being used by the Division of Correction and the experience gained by the Division of Correction in the use of the equipment for the purposes for which it is being purchased;



(ii) Availability of service and replacement and spare parts for the equipment;

(iii) Familiarity with the equipment of the employees or inmates responsible for the maintenance, repair, and upkeep thereof;

(iv) Compatibility of the farm machinery and equipment with repair and maintenance shop facilities available at the Division of Correction;

(v) Access to the dealer responsible for warranty service; and

(vi) Such additional factors as the board deems pertinent to the better interests of the management and operation of the farm crop lands of the Division of Correction.

(C)(i) All purchases of farm machinery and equipment shall be in accordance with the applicable state procurement laws and rules promulgated thereunder.

(ii) Contracts for the providing or furnishing of service, repair, and replacement parts of farm machinery and equipment may include provision for the furnishing of a stated quantity of replacement and spare parts to be stored at the Division of Correction or may include contract prices for major or standard items of service or for the furnishing of replacement and spare parts at stated prices, which shall be at a discount from the published dealer price list, as the board may deem in the best interest of the Division of Correction.

(iii) As an alternative, the board may elect to authorize the official to acquire replacement and spare parts on a need basis by following the applicable state procurement procedure in the acquisition of each item thereof as needed.

(4)(A) The official of the Division of Correction acting under the instruction and direction of the board and the Director of the Division of Correction shall be the sole and exclusive purchasing agent for the acquisition of farm machinery and equipment, whether by lease or purchase, and for the acquisition of repair services for farm machinery and equipment and repair and replacement parts therefor in the manner set forth in this section, and for the acquisition of those items covered in subsection (b) of this section.

(B) Nothing in this section shall prohibit the Division of Correction from requesting the State Procurement Director to make available the services of the Office of State Procurement in the acquisition of any item for which the official of the Division of Correction is the exclusive purchasing agent under this section.

**History.** Acts 1981, No. 240, §§ 1-3; A.S.A. 1947, §§ 14-247.1 — 14-247.3; Acts 1997, No. 351, § 1; 2001, No. 1237, § 13; 2005, No. 1680, § 3; 2019, No. 315, §§ 1762-1764.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (b)(1) and (b)(2); and deleted “and regulations” following “rules” in (c)(2)(B) and (c)(3)(C)(i).

### 19-11-222. Exclusive jurisdiction over procurement — Definitions.

(a) The State Procurement Director has exclusive jurisdiction over the procurement of:

- (1) Items subject to Arkansas Constitution, Amendment 54;
- (2) Wholesale gasoline, oil, and related products;
- (3) Tires;
- (4)(A) Passenger motor vehicles and trucks, except highway construction and highway maintenance equipment, any specialized type of equipment used in highway construction, or a motor vehicle purchased under § 6-21-307, except as otherwise provided in this subchapter.

(B) The director may issue a request for qualifications for the procurement of passenger motor vehicles and trucks to compile a qualified vendor list that includes vendors in multiple areas of the state;

- (5) Paper products;
- (6) New and used school buses for state agencies;
- (7) A purchasing card program and travel card program to include implementation and administration; and
- (8) An electronic commerce procurement solution to include planning and administration consistent with the established financial systems of the state.

(b) As used in this section:

(1) "Printing" means the process of transferring images, by the use of standard industrial type printer ink, upon documents such as letterhead, envelopes, pamphlets, booklets, and forms;

(2) "Stationery" means imprinted letterhead and envelopes used by the General Assembly and other departments of state government to identify an individual department, agency, board, commission, etc.; and

(3) "Supplies" means paper and inks used to produce stationery.

**History.** Acts 1979, No. 482, § 20; 1981, No. 600, § 9; A.S.A. 1947, § 14-248; Acts 1991, No. 749, § 3; 1993, No. 896, § 4; 2001, No. 1237, § 14; 2001, No. 1309, § 1; 2003, No. 487, § 4; 2005, No. 1680, § 4; 2017, No. 442, § 2; 2017, No. 1004, § 2.

**Amendments.** The 2017 amendment by No. 442 substituted "has" for "shall

have" in the introductory language of (a); and, in (a)(4) [now (a)(4)(A)], deleted "or" preceding "any specialized" and inserted "or a motor vehicle purchased under § 6-21-307".

The 2017 amendment by No. 1004 redesignated former (a)(4) as (a)(4)(A); and added (a)(4)(B).

### 19-11-223. Commodities, technical and general services, and professional and consultant services under state contract.

(a)(1) In addition to establishing a state contract for those commodities, technical and general services, and professional and consultant services within the exclusive jurisdiction of the State Procurement Director under § 19-11-222, the director may award a mandatory state



contract for other commodities, technical and general services, and professional and consultant services when the director determines that combining the collective purchasing power of the state would be beneficial to the state.

(2) The director shall submit a mandatory state contract that is not for commodities or services within the exclusive jurisdiction of the director to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee, for review.

(b)(1) Unless an exemption is approved by the director under subdivision (b)(2) of this section, a state agency that requires commodities, technical and general services, and professional and consultant services that are under a mandatory state contract shall procure these commodities, technical and general services, and professional and consultant services exclusively under the mandatory state contract.

(2)(A) Except as provided in § 19-11-233, the director may approve an exemption from a mandatory state contract awarded under this section only if the state agency demonstrates that substantial savings will likely be effected by purchasing outside of the mandatory state contract.

(B)(i) Approval of an exemption from a mandatory state contract under this section shall be in writing.

(ii) Denial of a request for an exemption from a mandatory state contract under this section is not required to be in writing.

(c) All contracts concerning commodities, technical and general services, and professional and consultant services shall disclose a projected total cost, including without limitation expenditures that may be incurred under all available periods of extension if the extensions were executed.

(d) The director shall:

(1) Identify and prioritize opportunities for awarding mandatory state contracts under this section;

(2) Conduct mandatory state contract procurements under this section that would produce savings for the state;

(3) Attempt to invite the participation of the potentially affected state agencies in the development and evaluation of a mandatory state contract procurement;

(4) Post notice of his or her intent to procure a mandatory state contract on the official website of the Office of State Procurement; and

(5)(A) Promote the use of mandatory state contracts among county and city governments, including without limitation making information about the mandatory state contracts readily available and searchable.

(B) The director shall adopt rules to include any necessary conditions, reporting, or document retention standards related to the director's duty to promote mandatory state contract use under this subsection.

**History.** Acts 1979, No. 482, § 21; No. 1680, § 5; 2019, No. 421, § 2. 1981, No. 600, § 10; A.S.A. 1947, § 14-249; Acts 2001, No. 1237, §§ 15, 16; 2005, **Amendments.** The 2019 amendment rewrote the section.

**19-11-224. Interest and carrying charges.**

State agencies, including exempt agencies, may enter into contracts which contemplate the payment of interest and late charges, but only when such late charges are incurred sixty (60) days after payment is due or carrying charges under such rules as may be promulgated by the State Procurement Director.

**History.** Acts 1979, No. 482, § 22; A.S.A. 1947, § 14-250; Acts 1997, No. 1066, § 2; 2001, No. 1237, § 17; 2019, No. 315, § 1765.

**Amendments.** The 2019 amendment substituted “rules” for “regulations”.

**19-11-225. Rules.**

(a)(1) The State Procurement Director shall adopt rules in accordance with the applicable provisions of this subchapter and of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(2) A rule promulgated by the director under this subchapter is not effective until the rule is:

(A) Submitted to and reviewed by the Review Subcommittee of the Legislative Council; and

(B) Reviewed and approved by the Legislative Council under § 10-3-309.

(b) A rule shall not change any commitment, right, or obligation of the state or of a contractor under a contract in existence on the effective date of the rule.

(c)(1) A clause that is required by rule to be included is not incorporated by operation of law in any state contract without the consent of both parties to the contract to the incorporation.

(2) The parties to the contract may give such consent to incorporation by reference at any time after the contract has been entered into and without the necessity of consideration passing to either party.

**History.** Acts 1979, No. 482, § 23; A.S.A. 1947, § 14-251; Acts 2001, No. 1237, § 18; 2019, No. 315, § 1766; 2019, No. 419, § 2.

**Amendments.** The 2019 amendment by No. 315 substituted “Rules” for “Regulations” in the section heading and in (a); and made similar changes in (b) and (c)(1).

The 2019 amendment by No. 419 substituted “Rules” for “Regulations” in the section heading; redesignated (a) as (a)(1);

substituted “The State Procurement Director shall adopt rules” for “Regulations shall be promulgated by the State Procurement Director” in (a)(1); added (a)(2); substituted “A rule shall not change” for “No regulation shall change” in (b); substituted “rule” for “regulation” in (b) and (c)(1); and, in (c)(1), substituted “A clause that” for “No clause which”, and substituted “is not” for “shall be considered to be”.

**19-11-226. Recommendations.**

(a) The State Procurement Director shall maintain a close and cooperative relationship with the using agencies.



(b)(1) The director shall afford each using agency reasonable opportunity to participate in and make recommendations with respect to matters affecting the using agency.

(2) At any time, any using agency may make recommendations to the director, and the director may make recommendations to any using agency.

(3) The Secretary of the Department of Transformation and Shared Services may make recommendations to the director.

**History.** Acts 1979, No. 482, § 24; substituted “Secretary of the Department of Transformation and Shared Services”  
A.S.A. 1947, § 14-251.1; Acts 2001, No. 1237, § 19; 2019, No. 910, § 6110. for “Director of the Department of Finance and Administration” in (b)(3).

**Amendments.** The 2019 amendment

### 19-11-227. Statistical data.

The State Procurement Director and the Secretary of the Department of Transformation and Shared Services shall cooperate with the Division of Budgets and Accounting in the preparation of statistical data concerning the procurement and disposition of all commodities and services, unless otherwise provided in this subchapter.

**History.** Acts 1979, No. 482, § 25; inserted “and the Secretary of the Department of Transformation and Shared Services”  
A.S.A. 1947, § 14-251.2; Acts 2001, No. 1237, § 20; 2019, No. 910, § 6111.

**Amendments.** The 2019 amendment

### 19-11-229. Competitive sealed bidding — Definition.

(a) **DEFINITION.** “Competitive sealed bidding” means a method of procurement which requires:

(1) Issuance of an invitation for bids with a purchase description and all contractual terms and conditions applicable to the procurement;

(2) Public, contemporaneous opening of bids at a predesignated time and place;

(3) Unconditional acceptance of a bid without alteration or correction, except as authorized in §§ 19-11-204 and 19-11-228 — 19-11-240;

(4) Award to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements and criteria set forth in the invitation for bids; and

(5) Public notice.

(b)(1) Contracts exceeding an estimated purchase price of seventy-five thousand dollars (\$75,000) shall be awarded by competitive sealed bidding unless a determination is made in writing by the agency procurement official or the State Procurement Director that this method is not practicable and advantageous and specifically states the reasons that this method is not practicable and advantageous.

(2) The director may provide by rule that it is not practicable to procure specified types of commodities, technical and general services, or professional and consultant services by competitive sealed bidding.

(3) Factors to be considered in determining whether competitive sealed bidding is not practicable shall include whether:

(A) Purchase descriptions are suitable for award on the basis of the lowest evaluated bid price; and

(B) The available sources, the time and place of performance, and other relevant circumstances are appropriate for the use of competitive sealed bidding.

(c) When it is considered impractical to initially prepare a purchase description to support an award based on price, an invitation for bids may be issued requesting the submission of unpriced technical proposals to be followed by an invitation for bids limited to those bidders whose technical proposals meet the requirements set forth in the first invitation.

(d) Notice inviting bids shall:

(1) Be given not fewer than five (5) calendar days nor more than ninety (90) calendar days preceding the date for the opening of bids by publishing the notice at least one (1) time in at least one (1) newspaper having general circulation in the state or posting by electronic media, but in all instances, adequate notice shall be given;

(2) Include a general description of the commodities, technical and general services, or professional and consultant services to be procured;

(3) State where invitations for bids may be obtained;

(4) State the date, time, and place of bid opening; and

(5) State the time, date, and place of the solicitation conference if a solicitation conference is to be held before the opening of bids to provide information to prospective bidders.

(e) Bids shall be opened publicly in the presence of one (1) or more witnesses at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and open to public inspection.

(f)(1)(A) Bids shall be evaluated based on the requirements set forth in the invitation for bids.

(B) These requirements may include criteria to determine acceptability such as:

(i) Inspection;

(ii) Testing;

(iii) Quality;

(iv) Workmanship;

(v) Delivery;

(vi) Past performance; and

(vii) Suitability for a particular purpose and criteria affecting price such as life-cycle or total ownership costs.

(2)(A) The invitation for bids shall set forth the evaluation criteria to be used.

(B) No criteria may be used in bid evaluation that were not set forth in the invitation for bids.

(3)(A) A time discount may be considered in the evaluation of a bid only:



(i) If the state agency specifically solicits pricing that requests a time discount; and

(ii) Under the structured terms of the invitation for bids.

(B) If a bidder offers a time discount as part of its bid without the solicitation of time discounts by the state agency, the state agency shall not consider the time discount.

(g)(1) Correction of patent or provable errors in bids that do not prejudice other bidders or withdrawal of bids may be allowed only to the extent permitted under rules promulgated by the director and upon written approval of the Attorney General or a designee of such officer.

(2) No award shall be made on the basis of a corrected bid, if the corrected bid exceeds the next lowest bid of a responsible bidder.

(3)(A) The director or an agency procurement official may seek the clarification of a submitted bid.

(B) A written response by a bidder under this subsection shall only clarify the submitted bid and shall not add any substantive language to the submitted bid or change the terms of the submitted bid.

(C) If the bidder fails or refuses to clarify any matter questioned about the bidder's bid in writing by the deadline set by the director or agency procurement official, the bid may be rejected.

(D) If the bidder clarifies the matter questioned under this subsection in writing, the clarification shall be evaluated and become a part of any contract awarded on the basis of the bidder's bid.

(h)(1) The contract shall be awarded with reasonable promptness by written notice to the lowest responsible bidder whose bid meets the requirements and criteria set forth in the invitation for bids.

(2)(A) Except with respect to a contract being procured for a construction project, the director or the head of a procurement agency may negotiate a lower bid price, including changes in the bid requirements, with the lowest responsive and responsible bidder if:

(i) All bids received from responsive and responsible bidders exceed available funding as certified by the appropriate fiscal officer of the procurement agency; or

(ii) It appears that additional savings to the state may result from negotiation.

(B)(i)(a) If negotiations with the lowest responsive and responsible bidder conducted under subdivision (h)(2)(A) of this section fail to result in a lower bid price, the state may negotiate for a lower bid price with the next lowest responsive and responsible bidder.

(b) If negotiations with the next lowest responsive and responsible bidder under subdivision (h)(2)(B)(i)(a) of this section fail to result in a lower bid price, the state may negotiate for a lower bid price with the next lowest responsive and responsible bidder until an acceptable lower bid price is negotiated or the state determines that negotiations are no longer in the best interest of the state.

(ii) A bid price resulting from negotiations conducted under this section shall not be higher than:

(a) The bid price originally submitted by the lowest responsive and responsible bidder; or

(b) A price previously offered in negotiations by a responsive and responsible bidder.

(iii) Negotiations conducted under this section do not preclude the use of other methods of source selection or procurement authority provided under this subchapter.

(C)(i) Negotiations under this subsection shall be conducted by a person who is trained and certified in negotiation and procurement processes.

(ii)(a) The Office of State Procurement shall provide for the training and certification required under this subsection.

(b) The training provided by the office shall be specific to Arkansas law.

(3) All other bidders requesting to be notified of the award decision shall be promptly notified of the decision.

(i)(1) An invitation for bids may be cancelled or any or all bids may be rejected in writing by the director or the agency procurement official.

(2) Before the rejection of a bid by the director, the decision to reject the bid may be validated with the state agency for which the procurement is being conducted.

(3) A bid may be rejected for failure to adhere to mandatory requirements.

**History.** Acts 1979, No. 482, § 29; 1981, No. 600, §§ 13-16; A.S.A. 1947, § 14-254; Acts 1987, No. 540, § 2; 1995, No. 317, § 2; 1995, No. 340, § 2; 2001, No. 1237, § 22; 2003, No. 487, § 5; 2005, No. 1680, § 6; 2013, No. 1189, § 2; 2017, No. 696, § 1; 2017, No. 1004, § 3; 2019, No. 315, §§ 1767, 1768; 2019, No. 419, §§ 3-7.

**Amendments.** The 2017 amendment by No. 696 rewrote (h)(2).

The 2017 amendment by No. 1004 substituted "seventy-five thousand dollars

(\$75,000)" for "fifty thousand dollars (\$50,000)" in (b)(1).

The 2019 amendment by No. 315 substituted "rule" for "regulation" in (b)(2); and substituted "rules" for "regulations" in (g)(1).

The 2019 amendment by No. 419 rewrote (d); added (f)(3), (g)(3), and (h)(2)(C); inserted the (i)(1) designation and added (i)(2) and (i)(3); and substituted "for bids" for "for bid" in (i)(1).

## 19-11-230. Competitive sealed proposals — Definition.

(a) **DEFINITION.** "Competitive sealed proposals" means a method of procurement which involves, but is not limited to:

(1) Solicitation of proposals through a request for proposals;

(2) Submission of cost or pricing data from the offeror where required;

(3) Discussions with responsible offerors whose proposals have been determined to be reasonably susceptible to being selected for award; and

(4) An award made to the responsible offeror whose proposal is determined in writing to be the most advantageous considering price and evaluation factors set forth in the request for proposals.

(b) When the use of competitive sealed bidding is not practicable and advantageous, a contract may be awarded by competitive sealed proposals.



(c) Public notice of the request for proposals shall be given in the same manner as provided in § 19-11-229(d), which refers to public notice of competitive sealed bidding.

(d)(1) The request for proposals shall indicate the relative importance of price and other evaluation factors.

(2)(A) Except as provided in subdivision (d)(2)(B) of this section, cost shall be weighted at least thirty percent (30%) of the total evaluation score for a proposal submitted in response to the request for proposals.

(B)(i) The State Procurement Director may approve that cost be weighted at a lower percentage of the total evaluation score for a proposal submitted in response to a request for proposals if the director makes a written determination that the lower percentage is in the best interest of the state.

(ii) A state agency's failure to obtain the approval of the director under this subsection for a request for proposals with cost weighted at a lower percentage than required under subdivision (d)(2)(A) of this section is grounds for submitting a protest under § 19-11-244.

(C) The use of a lower percentage under subdivision (d)(2)(B) of this section and the corresponding written determination by the director shall be submitted to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, for review before the request for proposals is issued.

(3) The state's prior experience with an offeror may be considered and scored as part of the offeror's proposal only:

(A) To the extent that the request for proposals requests that all offerors provide references; and

(B) If the offeror's past performance with the state occurred no more than three (3) years before the offeror submitted the proposal.

(4) A state agency shall not include prior experience with the state as a mandatory requirement for submitting a proposal under this section.

(e)(1) As provided in the request for proposals and under rule, discussions may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of:

(A) Clarifying solicitation requirements to assure full understanding of and responsiveness to the solicitation requirements; or

(B) Negotiating a contract that is more advantageous to the state.

(2)(A) If discussions conducted after the deadline for the receipt of proposals necessitate material revisions of proposals, each offeror determined to be responsible and reasonably susceptible of being awarded a contract shall be provided an opportunity to revise its proposal for the purpose of submitting a best and final offer.

(B) An offeror may be permitted to revise its original proposal as a result of discussions only after the original submission deadline and before award for the purpose of providing a best and final offer.

(C)(i) Before issuing the notice of award of a contract, the director or the agency procurement official may request a best and final offer

from each responsible offeror that is reasonably susceptible of being awarded the contract.

(ii) In responding to a request for a best and final offer, an offeror may:

(a) Resubmit the offeror's original proposal with lower pricing or additional benefits, or both, in accordance with the specifications of the request for proposals; or

(b) Submit a written response that states that the offeror's original proposal, including without limitation the pricing, remains unchanged.

(iii) If a best and final offer is requested, the director or the agency procurement official shall evaluate each proposal submitted in response to the request for a best and final offer in determining the proposal that is the most advantageous to the state.

(3) In conducting discussions, information derived from a proposal submitted by a competing offeror shall not be disclosed until after a notice of anticipation to award is announced.

(f)(1) The director or an agency procurement official may seek the clarification of a submitted proposal.

(2) A written response by an offeror under this subsection shall only clarify the submitted proposal and shall not add any substantive language to the submitted proposal or change the terms of the submitted proposal.

(3) If the offeror fails or refuses to clarify any matter questioned about the offeror's proposal in writing by the deadline set by the director or agency procurement official, the proposal may be rejected.

(4) If the offeror clarifies the matter questioned under this subsection in writing, the clarification shall be evaluated and become a part of any contract awarded on the basis of the offeror's proposal.

(g)(1) Award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the state, taking into consideration price, the evaluation factors set forth in the request for proposals, any best and final offers submitted, and the results of any discussions conducted with responsible offerors.

(2) No other factors or criteria shall be used in the evaluation.

(3) If it is determined that two (2) or more responsible offerors have tied scores after the evaluation of the proposals, the award shall be made to the responsible offeror that had one (1) of the tied scores and submitted the lowest price proposal.

(4) The director or the agency procurement official may enter into negotiations with the responsible offeror whose proposal is determined in writing to be the most advantageous to the state when the best interests of the state would be served, including without limitation when the state can obtain:

(A) A lower price without changes to the terms or specifications of the request for proposals; or

(B) An improvement to the terms or specifications, or both, of the request for proposals without increasing the price of the proposal.



(h)(1) The Office of State Procurement shall:

(A) Encourage full discussion by the evaluators who are evaluating proposals submitted in response to a request for proposals under this section; and

(B) Develop tools and templates to be used in evaluating proposals submitted in response to a request for proposals under this section that optimize the number of material scored attributes and provide for a limited range of possible scores for each attribute.

(2)(A) A state agency may use one (1) or more private evaluators to evaluate proposals submitted in response to a request for proposals under this section.

(B) A private evaluator used under this subsection shall be:

(i) Held to the same requirements and prohibitions regarding conflicts of interest as state employees;

(ii) A qualified volunteer, unless the state does not have the necessary expertise to evaluate the proposals, in which case a paid private evaluator may be used; and

(iii) Eligible for travel reimbursement if the state agency decides to make travel reimbursement available.

(C) The use of a private evaluator is not required.

(D) If a state agency uses one (1) or more private evaluators, the use of a private evaluator shall be disclosed in the procurement file and in any information submitted to the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(i)(1) A competitive sealed proposal may be cancelled or any or all proposals may be rejected in writing by the director or the agency procurement official.

(2) Before the rejection of a proposal by the director, the decision to reject the proposal may be validated with the evaluation committee that evaluated the proposal.

(3) A proposal may be rejected for failure to adhere to mandatory requirements.

**History.** Acts 1979, No. 482, § 30; 1981, No. 600, §§ 17-20; A.S.A. 1947, § 14-255; Acts 2001, No. 1237, § 23; 2007, No. 478, § 6; 2017, No. 696, § 2; 2019, No. 419, §§ 8-10.

**Amendments.** The 2017 amendment rewrote (e).

The 2019 amendment inserted the (d)(1) designation, and added (d)(2)

through (d)(4); added (e)(2)(C); inserted (f); redesignated former (f) as (g); inserted "any best and final offers submitted" in (g)(1); added (g)(3) and (g)(4); inserted (h); redesignated former (g) as (i)(1); substituted "director" for "State Procurement Director" in (i)(1); and added (i)(2) and (i)(3).

## 19-11-232. Proprietary or sole source procurements.

(a) Under rules promulgated under this subchapter, a contract may be awarded for a required or designated commodity or service to a sole or mandatory supplier when the State Procurement Director, the head of a procurement agency, or a designee of either officer above the level of agency procurement official determines in writing that it is not

practicable to use other than the required or designated commodity or service.

(b) Unless a written determination is made that there is only one (1) source for the required or designated commodity or service, efforts shall be made to obtain price competition.

**History.** Acts 1979, No. 482, § 33; **Amendments.** The 2019 amendment A.S.A. 1947, § 14-258; Acts 2001, No. substituted “rules” for “regulations” in (a). 1237, § 25; 2019, No. 315, § 1769.

### 19-11-233. Emergency procurements — Definition.

(a) The State Procurement Director, the head of a procurement agency, or a designee of either officer may make or authorize others to make emergency procurements as defined in § 19-11-204(4) and in accordance with rules promulgated by the director.

(b)(1) A person or state agency that makes an emergency procurement under this section shall:

(A) Receive at least three (3) competitive bids unless the emergency is a critical emergency; and

(B) Complete a quotation abstract that includes the:

(i) Names of the firms contacted;

(ii) Time that each firm was contacted;

(iii) Quoted price obtained from each contacted firm; and

(iv) Method used for contacting each firm.

(2) As used in this subsection, “critical emergency” means an emergency in which human life or health is imminently endangered.

**History.** Acts 1979, No. 482, § 34; 1981, No. 600, § 23; A.S.A. 1947, § 14-259; Acts 2001, No. 1237, § 26; 2019, No. 315, § 1770; 2019, No. 419, § 11. by No. 315 substituted “rules” for “regulations”.

The 2019 amendment by No. 419 added the (a) designation and added (b); and substituted “rules” for “regulations” in (a).

**Amendments.** The 2019 amendment

### 19-11-234. Competitive bidding.

(a)(1) Competitive bidding is a method of procurement which requires obtaining bids by:

(A) Direct mail request to prospective bidders and obtaining written bids;

(B) Telephone;

(C) Telegraph;

(D) Written form; or

(E) Electronic media.

(2) A competitive bid form authorized by the State Procurement Director must be completed.

(3) If three (3) competitive bids are not obtained on purchases when bids are required, the form must show the names of at least three (3) firms contacted in attempting to obtain competition or show the reason three (3) firms were not contacted.



(4)(A) Only firms which sell the type of commodity or service to be procured shall be contacted.

(B) The purchase procedures outlined in this section shall not apply to commodities, technical and general services, and professional and consultant services under state contract.

(b)(1) Contracts in which the purchase price exceeds twenty thousand dollars (\$20,000) and is less than or equal to seventy-five thousand dollars (\$75,000) may be awarded by use of competitive bidding procedures.

(2) However, in any such instances, competitive sealed bidding is permitted.

(c)(1)(A) All procurements shall be awarded to the responsive and responsible bidder who has submitted the lowest bid that meets the requirements, criteria, and specifications.

(B) Delivery time required must be reasonable and consonant with current industry norms.

(2) Complete justification must be given if award is made to other than the low bidder.

(d) Repeated small quantity procurements to circumvent the competitive bid limits or failure to obtain competitive bids without justification shall constitute a violation of these procedures and shall result in withdrawal of the state agency's competitive bid privileges.

**History.** Acts 1979, No. 482, § 35; 1981, No. 600, § 24; A.S.A. 1947, § 14-260; Acts 1991, No. 1018, §§ 4, 5; 1995, No. 317, §§ 3, 4; 1995, No. 340, §§ 3, 4; 2001, No. 1237, § 27; 2003, No. 487, § 6; 2005, No. 1680, § 7; 2013, No. 1189, § 3; 2017, No. 1004, § 4.

**Amendments.** The 2017 amendment substituted "twenty thousand dollars (\$20,000)" for "ten thousand dollars (\$10,000)" and "seventy-five thousand dollars (\$75,000)" for "fifty thousand dollars (\$50,000)" in (b)(1).

### **19-11-235. Responsibility of bidders and offerors.**

(a)(1) A determination of nonresponsibility of a bidder or offeror shall be made in accordance with rules promulgated by the State Procurement Director.

(2) A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted.

(3) The unreasonable failure of a bidder or offeror to promptly supply information in connection with such an inquiry may be grounds for a determination of nonresponsibility with respect to such bidder or offeror.

(4) If a bidder or offeror is determined to be nonresponsive, the reasons therefor shall be included in the determination.

(b)(1) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section shall not be disclosed outside of the Office of State Procurement or the procurement agency without prior written consent by the bidder or offeror.

(2) This section is not intended to prohibit the office from disclosing such information to the Governor, the Attorney General, or the Secre-

tary of the Department of Transformation and Shared Services when any of those officers deems it necessary.

(c) The director or the agency procurement official may require the posting of a bid bond, a performance bond, or a similar assurance by any actual or prospective bidder, offeror, or contractor, under rules promulgated under this subchapter.

**History.** Acts 1979, No. 482, § 36; A.S.A. 1947, § 14-261; Acts 1991, No. 1018, § 6; 2001, No. 1237, § 28; 2019, No. 315, §§ 1771, 1772; 2019, No. 910, § 6112.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” in (a)(1) and (c).

The 2019 amendment by No. 910 substituted “Secretary of the Department of Transformation and Shared Services” for “Director of the Department of Finance and Administration” in (b)(2).

### 19-11-238. Multiyear contracts.

(a) **SPECIFIED PERIOD.** Unless otherwise provided by law, a contract for commodities or services may be entered into for periods of not more than seven (7) years if funds for the first fiscal year of the contemplated contract are available at the time of contracting. Payment and performance obligations for succeeding fiscal years shall be subject to the availability and appropriation of funds therefor.

(b) **DETERMINATION PRIOR TO USE.** Prior to the utilization of a multi-year contract, it shall be determined in writing that:

(1) Estimated requirements cover the period of the contract and are reasonably firm and continuing;

(2) Such a contract will serve the best interests of the state by encouraging effective competition or otherwise promoting economies in state procurement; and

(3) In the event of termination for any reason, the contract provides for cessation of services and/or surrender by the state of the commodities and repayment to the state of any accrued equity.

(c) **TERMINATION DUE TO UNAVAILABILITY OF FUNDS IN SUCCEEDING YEARS.**

(1) Original terms of such multiyear contracts shall not exceed four (4) years.

(2) When funds are not appropriated or otherwise made available to support continuation of performance in a multiyear contract, the contract shall be terminated and the contractor may be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the commodities or services delivered under the contract.

(3) The cost of termination under subdivision (c)(2) of this section may be paid from:

(A) Appropriations currently available for performance of the contract;

(B) Appropriations currently available for procurement of similar commodities or services and not otherwise obligated; or

(C) Appropriations made specifically for the payment of such termination costs.



**History.** Acts 1979, No. 482, § 43; § 1; 2019, No. 418, § 3. A.S.A. 1947, § 14-267; Acts 1995, No. 317, **Amendments.** The 2019 amendment § 5; 1995, No. 340, § 5; 1995, No. 912, rewrote (c).

### 19-11-239. Finality of determinations.

The determinations required by:

- (1) Section 19-11-229(h), which refers to competitive sealed bidding, award;
- (2) Section 19-11-230(b), which refers to competitive sealed proposals, conditions for use;
- (3) Section 19-11-230(g), which refers to competitive sealed proposals, award;
- (4) Section 19-11-232, which refers to proprietary or sole source procurements;
- (5) Section 19-11-233, which refers to emergency procurements;
- (6) Section 19-11-234, which refers to competitive bidding;
- (7) Section 19-11-235, which refers to responsibility of bidders and offerors, determination of responsibility;
- (8) Section 19-11-238(b), which refers to multiyear contracts, determination prior to use; and
- (9) Section 19-11-263, which refers to special procurements, are final and conclusive, unless they are clearly erroneous, arbitrary, capricious, or contrary to law.

**History.** Acts 1979, No. 482, § 46; 1981, No. 600, § 27; A.S.A. 1947, § 14-270; Acts 2001, No. 1237, § 30. **Publisher's Notes.** This section is being set out to update a reference.

### 19-11-240. Reporting of suspected collusion — Definition.

(a) As used in this section, "collusion" means cooperation in the restraint of free and open competition in a public procurement, including without limitation:

- (1) Price fixing;
- (2) Bid rigging;
- (3) Customer or market allocation;
- (4) Misrepresenting the independence of the relationship between colluding parties; and
- (5) Exerting improper influence on public officials to obtain advantage in a public procurement, including without limitation:
  - (A) Offering bribes or kickbacks;
  - (B) Extortion; and
  - (C) Fraudulent misrepresentation.

(b) When for any reason collusion is suspected among any bidders or offerors, a written notice of the relevant facts shall be transmitted to the Attorney General.

(c)(1) All documents involved in a procurement in which collusion is suspected shall be retained until the Attorney General gives notice that they may be destroyed.

(2) All retained documents shall be made available to the Attorney General or a designee upon request and proper receipt of the request.

(d) Collusion is cause for:

(1) Debarment from consideration for award of a contract under § 19-11-245; and

(2) Suspension from consideration for award of a contract if there is probable cause for suspecting collusion as determined by the Attorney General or the State Procurement Director.

**History.** Acts 1979, No. 482, § 47; A.S.A. 1947, § 14-270.1; Acts 2017, No. 696, § 3.

**Amendments.** The 2017 amendment added “— Definition” in the section heading; added present (a); redesignated former (a) as (b); deleted “Notification to the

Attorney General” at the beginning of (b); redesignated former (b) as (c)(1) and (c)(2); in (c)(1), deleted “Retention of All Documents” at the beginning; substituted “of the request” for “therefor” at the end of (c)(2); added (d); and made a stylistic change.

### 19-11-241. Specifications — Definition.

(a) DEFINITION.

(1) “Specification” means any technical or purchase description or other description of the physical or functional characteristics, or of the nature, of a commodity or service.

(2) “Specification” may include a description of any requirement for inspecting, testing, or preparing a commodity or service for delivery.

(b) The State Procurement Director shall promulgate rules governing the preparation, maintenance, and content of standard and non-standard specifications for commodities, technical and general services, and professional and consultant services procured by the Office of State Procurement.

(c) MAXIMUM PRACTICABLE COMPETITION. All specifications shall be drafted so as to assure the maximum practicable competition for the state’s actual requirements.

**History.** Acts 1979, No. 482, §§ 49-51; 1981, No. 600, § 28; A.S.A. 1947, §§ 14-271 — 14-272.1; Acts 2001, No. 1237, § 31; 2005, No. 1680, § 9; 2019, No. 315, § 1773.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (b).

### 19-11-242. Commodity management rules.

The State Procurement Director shall promulgate rules governing:

(1) The sale, lease, or disposal of surplus commodities by public auction, competitive sealed bidding, or other appropriate method designated by rule, and no employee of the Department of Transformation and Shared Services or member of the employee’s immediate family shall be entitled to purchase any such commodities;

(2) The transfer of excess commodities within the state; and

(3) The sale, lease, or disposal of surplus commodities to not-for-profit organizations under § 22-1-101.



**History.** Acts 1979, No. 482, § 55; A.S.A. 1947, § 14-275.1; Acts 2001, No. 1237, § 32; 2013, No. 1020, § 1; 2019, No. 315, § 1774.

**Amendments.** The 2019 amendment

substituted “rules” for “regulations” in the section heading and the introductory language; and substituted “rule” for “regulation” in (1).

### 19-11-243. Proceeds from surplus commodities.

The State Procurement Director shall promulgate rules for the allocation of proceeds from the sale, lease, or disposal of surplus commodities, to the extent practicable, to the using agency which had possession of the commodity.

**History.** Acts 1979, No. 482, § 56; A.S.A. 1947, § 14-275.2; Acts 2001, No. 1237, § 33; 2019, No. 315, § 1775.

**Amendments.** The 2019 amendment substituted “rules” for “regulations”.

### 19-11-244. Resolution of protested solicitations and awards.

(a)(1) Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation of a contract may protest by presenting a written notice at least seventy-two (72) hours before the filing deadline for the solicitation response to the State Procurement Director or the head of a procurement agency.

(2)(A) An actual bidder, offeror, or contractor who is aggrieved in connection with the award of a contract may protest to the:

(i) Director; or

(ii) Head of a procurement agency.

(B) A person submitting a protest under subdivision (a)(2)(A) of this section shall give notice of the protest to the person named in the anticipation to award a contract by sending the person a copy of the protest by electronic mail and regular mail.

(3) The protest shall be submitted in writing within fourteen (14) calendar days after the calendar day on which the contract is awarded or the notice of anticipation to award the contract is posted, whichever occurs first.

(4) A protest submitted by an aggrieved person under this section shall:

(A) Be limited to one (1) or more of the following grounds:

(i) The award of the contract exceeded the authority of the director or the procurement agency;

(ii) The procurement process violated a constitutional, statutory, or regulatory provision;

(iii) The director or the procurement agency failed to adhere to the rules of the procurement as stated in the solicitation, and the failure to adhere to the rules of the procurement materially affected the contract award;

(iv) The procurement process involved responses that were collusive, submitted in bad faith, or not arrived at independently through open competition; or

(v) The award of the contract resulted from a technical or mathematical error made during the evaluation process; and

(B) State facts that substantiate each ground on which the protest is based.

(5)(A) A person named in an anticipation to award a contract that is protested under this section may file a written response to the protest.

(B) A response to a protest submitted under subdivision (a)(5)(A) of this section shall be submitted in writing within five (5) days of the date the person is given notice of the protest under subdivision (a)(2)(B) of this section.

(b)(1)(A) The director, the head of a procurement agency, or a designee of either officer may settle and resolve a protest concerning the solicitation or award of a contract before rendering an administrative protest determination.

(B)(i) A meeting in an attempt to settle or resolve a protest is not a public meeting.

(ii) However, a final settlement or resolution of a protest made under this section shall not be kept secret, sealed, or withheld from public disclosure.

(2) The authority to settle or resolve a protest under this section shall be exercised in accordance with laws governing the Arkansas State Claims Commission, which has exclusive jurisdiction over all claims against the state in connection with the solicitation or award of a contract, and the rules promulgated by the director.

(c)(1) If a protest is not settled or resolved by mutual agreement under subsection (b) of this section, the director, the head of a procurement agency, or a designee of either officer shall promptly issue an administrative protest determination in writing.

(2) The administrative protest determination shall state the reasons for the action taken.

(d) A copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished within five (5) days after it is written to the protestor and any other party intervening.

(e) An administrative protest determination under subsection (c) of this section is:

(1) Final and conclusive; and

(2) Not an order as defined in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(f) In the event of a timely protest under subsection (a) of this section, the state shall not execute a contract that is the result of the protested solicitation or award unless the director or the head of the relevant procurement agency makes a written determination that the execution of the contract without delay is necessary to protect substantial interests of the state.

(g) When the protest is sustained and the successfully protesting bidder or offeror was denied the contract award, the protesting bidder or offeror may be entitled to the reasonable costs incurred in connection



with the solicitation, including bid preparation costs, through the commission.

(h) An actual or prospective bidder, offeror, or contractor who is aggrieved by a protest submitted under this section that was without merit or intended purely to delay the award of a contract may bring a private cause of action for tortious interference with a business expectancy against the person or entity that submitted the protest.

**History.** Acts 1979, No. 482, § 57; A.S.A. 1947, § 14-276; Acts 2001, No. 1237, § 34; 2003, No. 487, § 7; 2005, No. 1680, § 10; 2009, No. 677, § 1; 2017, No. 882, §§ 1, 2; 2019, No. 420, §§ 2-4; 2021, No. 487, § 1; 2021, No. 793, §§ 3, 4.

**Amendments.** The 2017 amendment rewrote (b), (c), and (e).

The 2019 amendment, in (a)(3), substituted “award or notice of anticipation to award has been posted” for “aggrieved person knows or should have known of the facts giving rise to the grievance”; added (a)(4); in (f), substituted “execute a contract that is the result of the protested solicitation or award unless” for “proceed

further with the solicitation or with the award of the contract until”, substituted “the relevant procurement” for “a procurement”, and substituted “execution” for “award”; and added (h).

The 2021 amendment by No. 487, in (a)(3), substituted “calendar day on which the contract is awarded or the notice” for “award or notice” and “the contract is” for “has been” and added “whichever occurs first”.

The 2021 amendment by No. 793 redesignated former (a)(2) as (a)(2)(A); added (a)(2)(B) and (a)(5); and made a stylistic change.

## 19-11-245. Debarment or suspension.

(a) **APPLICABILITY.** This section applies to debarment for cause from consideration for award of contracts, or a suspension from such consideration during an investigation, when there is probable cause for such a debarment.

(b)(1)(A)(i) After reasonable notice to the person involved and reasonable opportunity for that person to have a hearing before a committee according to rules promulgated by the State Procurement Director, the director or the head of a procurement agency shall have authority to debar a person for cause from consideration for award of contracts, provided that doing so is in the best interests of the state.

(ii) The debarment shall not be for a period of more than three (3) years.

(B)(i) The same officer shall have authority to suspend a person from consideration for award of contracts, provided that doing so is in the best interests of the state and there is probable cause for debarment.

(ii) The suspension shall not be for a period exceeding three (3) months.

(2) The authority to debar or suspend shall be exercised in accordance with rules promulgated by the director.

(c) The causes for debarment or suspension because of unsuitability for award of a contract shall be set forth in rules promulgated by the director.

(d) The director or the head of a procurement agency shall issue a written decision to debar or suspend. The decision shall state the reasons for the action taken.

(e) NOTICE OF DECISION. A copy of the decision under subsection (d) of this section shall be mailed or otherwise furnished within five (5) days after it is written to the debarred or suspended person and any other party intervening.

(f) FINALITY OF DECISION. A decision under subsection (d) of this section shall be final and conclusive.

**History.** Acts 1979, No. 482, § 58; A.S.A. 1947, § 14-277; Acts 2001, No. 1237, § 35; 2003, No. 487, § 8; 2019, No. 315, §§ 1776-1778.

**Amendments.** The 2019 amendment substituted "rules" for "regulations" in (b)(1)(A)(i), (b)(2), and (c).

### **19-11-246. Resolution of contract and breach of contract controversies.**

(a) APPLICABILITY. This section applies to controversies between the state and a contractor which arise under or by virtue of a contract between them. This includes, without limitation, controversies based upon breach of contract, mistake, misrepresentation, or other cause for contract modifications or rescission.

(b)(1) The State Procurement Director, the head of a procurement agency, or a designee of either officer is authorized, prior to commencement of an action in a court or any other action provided by law concerning the controversy, to settle and resolve a controversy described in subsection (a) of this section.

(2) This authority shall be exercised in accordance with the law governing the Arkansas State Claims Commission and the rules promulgated by the director.

(c)(1) If such a claim or controversy is not resolved by mutual agreement, and after reasonable notice to the contractor and reasonable opportunity for the contractor to present the claim or controversy in accordance with the rules promulgated by the director, the head of a procurement agency, the director, or the designee of either officer shall promptly issue a decision in writing.

(2) The decision shall state the reasons for the action taken.

(d) A copy of the decision under subsection (c) of this section shall be mailed or otherwise furnished immediately to the contractor.

(e) The decision under subsection (c) of this section shall be final and conclusive.

(f) If the director, the head of a procurement agency, or the designee of either officer does not issue the written decision required under subsection (c) of this section within one hundred twenty (120) days after written request for a final decision, or within such longer period as may be agreed upon by the parties, then the contractor may proceed as if an adverse decision has been received.



**History.** Acts 1979, No. 482, § 59; A.S.A. 1947, § 14-278; Acts 2001, No. 1237, § 36; 2003, No. 487, § 9; 2005, No. 1680, § 11; 2019, No. 315, §§ 1779, 1780.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (b)(2) and (c)(1).

### **19-11-247. Remedies for unlawful solicitation or award.**

(a) The provisions of this section apply where it is determined upon any review provided by law that a solicitation or award of a contract is in violation of law.

(b) If prior to award it is determined that a solicitation or proposed award of a contract is in violation of law, then the solicitation or proposed award shall be:

- (1) Cancelled; or
- (2) Revised to comply with the law.

(c) If after an award it is determined that a solicitation or award of a contract is in violation of law, then in addition to or in lieu of other remedies provided by law:

(1) If the person awarded the contract has not acted fraudulently or in bad faith:

(A) The contract may be ratified and affirmed if it is determined that doing so is in the best interests of the state; or

(B) The contract may be terminated;

(2) If the person awarded the contract has acted fraudulently or in bad faith:

(A) The contract may be declared null and void; or

(B) The person awarded the contract may be directed to proceed with performance of the contract and pay such damages, if any, as may be appropriate if such action shall be in the best interests of the state.

(d) Before a contract is ratified and affirmed under subdivision (c)(1)(A) of this section, a contract shall be presented to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee, for review if the contract is required to be submitted for review under § 19-11-265.

**History.** Acts 1979, No. 482, §§ 60-62; A.S.A. 1947, §§ 14-279 — 14-279.2; Acts 2017, No. 696, § 4; 2021, No. 488, § 1.

The 2021 amendment substituted “§ 19-11-265” for “§ 19-11-1006 [repealed]” in (d).

**Amendments.** The 2017 amendment added (d).

### **19-11-248. Finality of administrative determinations.**

In any judicial action or other action provided by law, factual or legal determinations by employees, agents, or other persons appointed by the state shall have no finality and shall not be conclusive, notwithstanding any contract provision or rule of law to the contrary, except to the extent provided in:

- (1) Section 19-11-239, which refers to finality of determinations;

(2) Section 19-11-244(e), which refers to resolution of protested solicitations and awards, finality of decision;

(3) Section 19-11-245(f), which refers to debarment or suspension, finality of decision; and

(4) Section 19-11-246(e), which refers to resolution of contract and breach of contract controversies, finality of decision.

**History.** Acts 1979, No. 482, § 63; A.S.A. 1947, § 14-280; Acts 2019, No. 315, § 1781.

**Amendments.** The 2019 amendment deleted “regulation” following “provision” in the introductory language.

### 19-11-249. Cooperative purchasing.

(a)(1) A public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the acquisition of commodities or services in accordance with an agreement entered into between the participants.

(2)(A) A cooperative purchasing agreement is limited to commodities and services for which the public procurement unit may realize savings or material economic value, or both.

(B)(i) For cooperative purchasing agreements entered into by a state agency, the State Procurement Director shall consider the economic justification for using a cooperative purchasing agreement when granting or withholding approval for the cooperative purchasing agreement.

(ii) The director shall adopt rules to create a review policy outlining how the economic justification required under this section may be demonstrated, including without limitation a comparison of:

(a) Current state contract pricing and the pricing under a cooperative purchasing agreement; or

(b) Information obtained from a request for information and pricing under a cooperative purchasing agreement.

(C) The director and the Secretary of the Department of Transformation and Shared Services shall submit any request for the Office of State Procurement to participate in a cooperative purchasing agreement to the Governor for approval.

(b)(1)(A) The director shall present an annual report of all purchases made under cooperative purchasing agreements by a state agency without an agency procurement official under this section to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee.

(B) A state agency that has an agency procurement official shall present an annual report of all purchases made under cooperative purchasing agreements under this section to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee.

(2) The reports required under this subsection shall be in the format required by the Legislative Council and shall include the following:

(A) The name of the contractor;



(B) The name of the procuring agency;

(C) The contact information for the contractor and procuring agency;

(D) The total cost of the contract, including all available extensions;

(E) A description of the goods or services procured; and

(F) Any other information requested by the Legislative Council or the Joint Budget Committee.

(c) A contractor shall cooperate with the director in providing information necessary for the director to complete the report required under subsection (b) of this section.

**History.** Acts 1979, No. 482, § 65; A.S.A. 1947, § 14-282; Acts 2015, No. 557, § 4; 2019, No. 417, § 5; 2019, No. 421, § 3; 2021, No. 488, § 2.

**Amendments.** The 2019 amendment by No. 417 added (c).

The 2019 amendment by No. 421 rewrote (a); redesignated (b)(1) as (b)(1)(A); in (b)(1)(A), substituted “an annual report” for “a quarterly report” and inserted “by a state agency without an agency

procurement official”; added (b)(1)(B); and substituted “reports” for “report” in the introductory language of (b)(2).

The 2021 amendment, in (a)(2)(C), substituted “Department of Transformation and Shared Services” for “Department of Finance and Administration” and deleted “or the Department of Finance and Administration, respectively” following “Office of State Procurement”.

### 19-11-251. Intergovernmental use of commodities or services.

Any public procurement unit may enter into an agreement with any other public procurement unit or external procurement activity for the intergovernmental use of commodities, technical and general services, or professional and consultant services under the terms agreed upon between the parties and in accordance with the rules promulgated under this subchapter, independent of the requirements of:

(1) Sections 19-11-204, 19-11-228 — 19-11-240, and 19-11-263 that refer to source selection and contract formation; and

(2) Sections 19-11-205, 19-11-242, and 19-11-243 that refer to commodity management.

**History.** Acts 1979, No. 482, § 67; A.S.A. 1947, § 14-284; Acts 2001, No. 1237, § 38; 2005, No. 1680, § 12; 2019, No. 315, § 1782.

**Amendments.** The 2019 amendment deleted “and regulations” following “rules” in the introductory language.

### 19-11-252. Rules.

The State Procurement Director may promulgate reasonable rules pertaining to the sale or acquisition of any commodities, technical and general services, or professional and consultant services belonging to or produced by another public procurement unit or external procurement activity as authorized in §§ 19-11-206 and 19-11-249 — 19-11-258.

**History.** Acts 1979, No. 482, § 68; A.S.A. 1947, § 14-285; Acts 2001, No. 1237, § 39; 2005, No. 1680, § 13; 2019, No. 315, § 1783.

**Amendments.** The 2019 amendment deleted "and regulations" following "Rules" in the section heading and in the text.

### **19-11-259. Preferences among bidders — Definitions.**

(a) **DEFINITIONS.**

(1) The definitions in this subsection shall not be applicable to other sections of this subchapter.

(2) As used in this section:

(A) "Commodities" means materials and equipment used in the construction of public works projects;

(B) "Firm resident in Arkansas" means any individual, partnership, association, or corporation, whether domestic or foreign, that:

(i) Maintains at least one (1) staffed office in this state;

(ii) For not fewer than two (2) successive years immediately prior to submitting a bid, has paid taxes under the Division of Workforce Services Law, § 11-10-101 et seq., unless exempt, and either the Arkansas Gross Receipts Act of 1941, § 26-52-101 et seq., or the Arkansas Compensating Tax Act of 1949, § 26-53-101 et seq., on any property used or intended to be used for or in connection with the firm's business; and

(iii) Within the two-year period, has paid any taxes to one (1) or more counties, school districts, or municipalities of the State of Arkansas on either real or personal property used or intended to be used or in connection with the firm's business;

(C) "Lowest qualified bid" means the lowest bid which conforms to the specifications and request for bids;

(D) "Nonresident firm" means a firm which is not included in the definition of a "firm resident in Arkansas"; and

(E) "Public agency" means all counties, municipalities, and political subdivisions of the state.

(b)(1)(A) In the purchase of commodities by competitive bidding, all public agencies shall accept the lowest qualified bid from a firm resident in Arkansas.

(B) This bid shall be accepted only if the bid does not exceed the lowest qualified bid from a nonresident firm by more than five percent (5%) and if one (1) or more firms resident in Arkansas made written claim for a preference at the time the bids were submitted.

(C)(i) In calculating the preference to be allowed, the appropriate procurement officials, pursuant to §§ 19-11-201 — 19-11-259, shall take the amount of each bid of the Arkansas dealers who claimed the preference and deduct five percent (5%) from its total.

(ii) If, after making such deduction, the bid of any Arkansas bidder claiming the preference is lower than the bid of the nonresident firm, then the award shall be made to the Arkansas firm which submitted the lowest bid, regardless of whether that particular Arkansas firm claimed the preference.



(2)(A) The preference provided for in this section shall be applicable only in comparing bids where one (1) or more bids are by a firm resident in Arkansas and the other bid or bids are by a nonresident firm.

(B) This preference shall have no application with respect to competing bids if both bidders are firms resident in Arkansas, as defined in this section.

(C)(i) All public agencies shall be responsible for carrying out the spirit and intent of this section in their procurement policies.

(ii) Any public agency which, through any employee or designated agent, is found guilty of violating the provisions of this section or committing an unlawful act under it, shall be guilty of a misdemeanor.

(D) Notwithstanding any other provisions of Arkansas law, upon conviction that person shall be subject to imprisonment for not more than six (6) months or a fine of not more than one thousand dollars (\$1,000), or both.

(E)(i) If any provision or condition of this subchapter conflicts with any provision of federal law or any rule or regulation made under federal law pertaining to federal grants-in-aid programs or other federal aid programs, such provision or condition shall not apply to such federal-supported contracts for the purchase of commodities to the extent that the conflict exists.

(ii) However, all provisions or conditions of this subchapter with which there is no conflict shall apply to contracts to purchase commodities to be paid, in whole or in part, from federal funds.

(c)(1)(A) This section applies only to projects designed to provide utility needs of a county or municipality.

(B) Those projects shall include without limitation pipeline installation, sanitary projects, and waterline, sewage, and water works.

(2) To the extent that federal purchasing laws or bidding preferences conflict, this subchapter does not apply to projects related to supplying water or wastewater utility services, operations, or maintenance to a federal military installation by a municipality of the state.

**History.** Acts 1979, No. 482, § 76; 2001, No. 1237, § 43; 2003, No. 487, § 11; 1981, No. 600, § 29; 1983, No. 760, § 2; 2015, No. 147, § 2; 2019, No. 910, § 497. A.S.A. 1947, § 14-293; Acts 1989, No. 477, § 2; 1989 (3rd Ex. Sess.), No. 45, § 1; 1991, No. 846, § 1; 1991, No. 855, § 1; 1993, No. 263, § 1; 1993, No. 678, §§ 1, 2;

**Amendments.** The 2019 amendment substituted "Division of Workforce Services Law" for "Department of Workforce Services Law" in (a)(2)(B)(ii).

## 19-11-260. [Repealed.]

**Publisher's Notes.** This section, concerning recycled paper products and the preference, was repealed by Acts 2019,

No. 417, § 6, effective July 24, 2019. The section was derived from Acts 1991, No. 749, § 4; 2001, No. 1237, §§ 44, 45.

**19-11-261. Cooperative purchase of paper products for local governments.**

(a)(1) All cities, counties, and school districts shall participate in a cooperative purchasing program for the purchase of paper products.

(2) The program shall be administered by the State Procurement Director.

(b)(1) The director shall promulgate rules for administration of the program.

(2) The rules shall be reviewed by the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees of the committees.

**History.** Acts 1991, No. 749, § 4; 1997, No. 179, § 18; 2001, No. 1237, § 46; 2019, No. 315, § 1784.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (b)(1) and (b)(2).

**19-11-264. Submission of contracts with members of General Assembly required.**

(a) All contracts with a member of the General Assembly, his or her spouse, or with any business in which such person or his or her spouse is an officer, a director, or a stockholder owning more than ten percent (10%) of the stock in the business shall be presented to the Legislative Council or to the Joint Budget Committee, if the General Assembly is in session, before the execution date of the contract.

(b) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director and the Executive Director of the Arkansas Ethics Commission with its review as to the propriety of the contract, including without limitation whether the agency properly complied with the procurement process and whether the contract represents an improper conflict of interest between the member and the agency, within thirty (30) days after receipt of the proposed contract.

(c) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Department of Transformation and Shared Services has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

**History.** Acts 2007, No. 567, § 1.

**Publisher’s Notes.** This section is set out to correct the reference of “Depart-

ment of Finance and Administration” to “Department of Transformation and Shared Services” in (c).

**19-11-265. Submission of contracts required — Definition.**

(a)(1) Except for critical emergency procurements and as otherwise provided in this section, a contract requiring the services of one (1) or more persons shall be presented to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee, if the annual contract amount is at least fifty thousand dollars (\$50,000) in



any one (1) contract year or if the total projected contract amount, including any amendments or possible extensions, is at least three hundred fifty thousand dollars (\$350,000).

(2) The Legislative Council or the Joint Budget Committee shall provide the State Procurement Director with its review as to the propriety of the contract within thirty (30) days after receipt of the proposed contract.

(3) The contract shall not be submitted to the Legislative Council or to the Joint Budget Committee until the Office of State Procurement has reviewed the contract and provided the Legislative Council or the Joint Budget Committee with a recommendation regarding the legality of the contract.

(4)(A)(i) A contract that does not have a material change upon renewal or extension shall be included in the monthly report required under § 19-11-274 instead of being submitted to the Legislative Council or the Joint Budget Committee for review under this subsection.

(ii) As used in this subdivision (a)(4), "material change" includes without limitation:

(a) An increase in the contract amount;

(b) An increase in the total projected contract amount;

(c) A change in any of the essential terms of the contract;

(d) A change in any performance-based standards stated in the contract;

(e) The imposition of financial consequences as the result of a failure to satisfy performance-based standards under § 19-11-267 during the year preceding the renewal or extension of the contract; and

(f) The submission of a vendor performance report during the year preceding the renewal or extension of the contract.

(B) However, a state agency may elect to submit a contract for review under this subsection if the state agency is uncertain whether the contract has a material change.

(5) A contract that is submitted for review under this subsection and that has a total projected contract amount of at least three hundred fifty thousand dollars (\$350,000) shall have a cover sheet that provides the following information:

(A) A description of the services being procured;

(B) A description of the procurement process followed, including without limitation the method used for the procurement; and

(C) The outcome of any protests.

(b) The Legislative Council or the Joint Budget Committee may review or exempt from review any contract or group of contracts contemplated by this section.

(c) A contract that is procured by a state agency that has a state agency procurement official or procurement authority under a delegation order is subject to the presentment requirements under this section.

(d) It is a violation of state procurement laws, Arkansas Code Title 19, Chapter 11, for a state agency official to procure services in an incremental or split purchase arrangement to avoid the presentment requirements of this section.

**History.** Acts 2007, No. 870, § 1; 2009, No. 396, § 1; 2015, No. 557, § 5; 2019, No. 417, § 7.

**Amendments.** The 2019 amendment rewrote (a)(1); added (a)(4) and (a)(5); deleted former (c) and redesignated the remaining subsections accordingly; in pres-

ent (c), substituted “that has” for “with”, inserted “or procurement authority under a delegation order”, and deleted “reporting and” preceding “presentment”; and deleted “reporting or” preceding “presentment” in present (d).

### **19-11-267. Development and use of performance-based contracts — Findings.**

(a) The General Assembly finds that:

(1) Performance-based contracts provide an effective and efficient method of monitoring and evaluating the overall quality of services provided; and

(2) The practice of including benchmark objectives that the provider must attain at specific intervals during the term of the contract is an essential requirement for measuring performance.

(b)(1) A state agency, board, commission, or institution of higher education that enters into a contract under this chapter to procure services that has a contract amount of at least one million dollars (\$1,000,000) in a single contract year or a total projected contract amount, including any amendments to or possible extensions of the contract, of at least seven million dollars (\$7,000,000) shall use performance-based standards in the contract that are specifically tailored to the services being provided under the contract.

(2) The performance-based standards used under this subsection shall include performance measures based on objective factors.

(3) A state agency, board, commission, or institution of higher education is encouraged to use performance-based standards that are based on objective factors in any other contract in which it would serve the best interest of the state.

(c) A state agency, board, commission, or institution of higher education that enters into a contract with performance-based standards:

(1)(A) Shall monitor the vendor’s performance and adherence to the performance-based standards in the contract.

(B) For state contracts, the Office of State Procurement shall be the state agency that monitors each vendor’s performance under this subdivision (c)(1); and

(2) May impose financial consequences, as identified in the contract, on a vendor that is party to a contract with performance-based standards for failure to satisfy the performance-based standards, including without limitation withholding payment or pursuing liquidated damages to the extent allowed by law.



(d)(1) The State Procurement Director shall promulgate rules necessary to implement and administer this section.

(2) Rules promulgated under this subsection are subject to approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

**History.** Acts 2015, No. 557, § 6; 2019, No. 418, § 4. rewrote (b); inserted (c); and redesignated former (c) as (d).

**Amendments.** The 2019 amendment

### **19-11-268. Vendor performance reporting.**

(a)(1) A state agency shall report a vendor's performance under a contract executed under this chapter if the vendor fails to satisfy the performance-based standards stated in the contract in a manner that represents a material deviation.

(2) A state agency shall use a form prescribed by the State Procurement Director and approved by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, to report a vendor's performance under this section.

(b) The report required under this section shall be:

(1) Filed with the Office of State Procurement and maintained for a minimum of three (3) years from the termination of the relevant contract, including any extensions and amendments;

(2) Signed by the director of the state agency or his or her designee; and

(3) Filed monthly until the vendor has performed satisfactorily under the contract for a period of at least ninety (90) consecutive days.

(c) A state agency may report a vendor's performance in the manner prescribed under this section for any contract that would not require reporting of a vendor's performance under this section if the state agency encounters an issue with the vendor's performance of a contract.

(d) A state agency may use a vendor performance report submitted under this section to evaluate an offeror to the extent that the past performance of an offeror may be considered under the law and the rules adopted by the office.

**History.** Acts 2015, No. 557, § 6; 2019, No. 418, § 4.

**Amendments.** The 2019 amendment substituted "chapter if the vendor fails to satisfy the performance-based standards stated in the contract in a manner that represents a material deviation" for "subchapter that has a total initial contract amount or total projected contract

amount, including any amendments to or possible extensions of the contract, of at least twenty-five thousand dollars (\$25,000)" in (a)(1); deleted former (b)(1), and redesignated former (b)(2) and (b)(3) as (b)(1) and (b)(2); added present (b)(3); added (c) and (d); and made a stylistic change.

### **19-11-269. Review of information technology plans.**

The Office of State Procurement shall ensure that all required information has been submitted to the Office of Intergovernmental

Services for review of proper planning and technical requirements before the execution of:

(1) A contract issued under this subchapter that procures information technology products or services with a total projected contract amount, including any amendments to or possible extensions of the contract, of at least one hundred thousand dollars (\$100,000); or

(2) A purchase of information technology products or services made under a cooperative purchase agreement under § 19-11-249.

**History.** Acts 2015, No. 557, § 6.

ing set out to correct a reference to a state

**Publisher's Notes.** This section is be-

entity.

### **19-11-271. Compliance reporting.**

(a) Each report required under this subchapter shall be copied to the Secretary of the Department of Transformation and Shared Services, who shall review each report for compliance with the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-601 et seq.

(b) If the secretary determines that a state agency, agency procurement official, or state official or employee may be in violation of the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-601 et seq., the secretary shall notify the chief executive officer of the relevant state agency.

**History.** Acts 2015, No. 557, § 6; 2019, No. 910, § 3473.

for "Director of the Department of Finance and Administration" in (a); and substituted "secretary" for "director" twice in (b).

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Transformation and Shared Services"

### **19-11-273. Procurements for services in designated positions and designated financial and information technology positions.**

A contract for services with a person employed or entity employing persons in a designated position or designated financial or information technology position as defined in § 21-15-101 shall require compliance with the registry records check and criminal history records check laws under § 21-15-101 et seq.

**History.** Acts 2019, No. 318, § 4.

### **19-11-274. Reporting requirements.**

(a) The State Procurement Director shall compile a monthly report of all executed contracts for services that have a total initial contract amount or a total projected contract amount, including any amendments or possible extensions, of at least twenty-five thousand dollars (\$25,000) but less than an annual contract amount of fifty thousand dollars (\$50,000) in any one (1) contract year or a total projected



contract amount, including any amendments or possible extensions, of three hundred fifty thousand dollars (\$350,000).

(b) A contract that is procured by a state agency that has a state agency procurement official or procurement authority under a delegation order is subject to the reporting requirements under this section.

(c) The State Procurement Director shall adopt rules to:

(1) Prescribe a cover sheet for the report required under this section that sorts and identifies contracts within the report that may be candidates for review;

(2) Create instructions for completing the cover sheet prescribed under subdivision (c)(1) of this section; and

(3) Provide for the identification of any contracts included in the report that may need to be reviewed under § 19-11-265.

(d) It is a violation of state procurement laws, Arkansas Code Title 19, Chapter 11, for a state agency official to procure services in an incremental or split purchase arrangement to avoid the reporting requirements of this section.

**History.** Acts 2019, No. 417, § 8.

#### **19-11-275. Tracking requirements.**

(a) The State Procurement Director, each agency procurement official, and any state agency with procurement authority under a delegation order shall track the following for the procurements they conduct and the contracts they execute:

(1) Each protest received and the resolution of the protest;

(2) The outcome of any negotiations under this chapter; and

(3) The anticipated procurement needs of the state agency based on the contracts that:

(A) Are set to expire during the next twelve (12) months; and

(B) Will require a new solicitation in the next twelve (12) months.

(b) Each agency procurement official and each state agency with procurement authority under a delegation order shall report the information obtained under subsection (a) of this section to the Office of State Procurement.

**History.** Acts 2019, No. 417, § 8.

#### **19-11-276. Compliance.**

(a) A contractor shall ensure, in cooperation with a state agency, that the contract between the contractor and the state agency adheres to the requirements of this chapter, including without limitation the inclusion of any mandatory language and the submission of the contract for any required review.

(b) The signature of a contractor on a contract with a state agency serves as an acknowledgement that the contractor is:

(1) Equally responsible with the state agency for adhering to the requirements of this chapter related to the content and review of the contract; and

(2) Subject to the relevant ethical provisions of § 19-11-701 et seq.

**History.** Acts 2019, No. 418, § 5.

**A.C.R.C. Notes.** Acts 2019, No. 418, § 8, provided: "Rules.

"(a) When adopting the initial rules required under this act, the State Procurement Director shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

"(1) On or before January 1, 2020; or

"(2) If approval under § 10-3-309 has not occurred by January 1, 2020, as soon

as practicable after approval under § 10-3-309.

"(b) The director shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2020, so that the Legislative Council may consider the rules for approval before January 1, 2020."

### **19-11-277. Solicitation conferences.**

(a)(1) A state agency may hold a solicitation conference before or after issuing an invitation for bids, a request for proposals, or a request for statements of qualifications and performance data under § 19-11-801 et seq.

(2) A solicitation conference may be held:

(A) In person; or

(B) Online or in another virtual format.

(b) Attendance by a vendor at a solicitation conference is not required for that vendor's bid, proposal, or statement of qualifications and performance data to be accepted unless the attendance requirement is:

(1) Explicitly stated in the invitation for bids, request for proposals, or request for statements of qualifications and performance data; and

(2) Approved by the State Procurement Director or the head of the procurement agency.

(c) A state agency holding a solicitation conference shall:

(1) For an invitation for bids or a request for proposals, include the date and time of the solicitation conference in the notice required under § 19-11-229;

(2) Require vendors in attendance at a solicitation conference to sign in at the solicitation conference or provide a registration record for an online or other virtual solicitation conference, regardless of whether attendance is required under the solicitation; and

(3) Maintain the sign-in sheet or registration records with the other documents related to the solicitation.

(d) A statement made at a solicitation conference does not change the invitation for bids, request for proposals, or request for statements of qualifications and performance data unless a change is made by written amendment to the invitation for bids, request for proposals, or request for statements of qualifications and performance data.

(e) A state agency is encouraged to hold a solicitation conference for a procurement that:

(1) Has a contract amount of at least:



- (A) Five million dollars (\$5,000,000) for a single contract year; or
- (B) Thirty-five million dollars (\$35,000,000) for the total anticipated term of the contract, including any extensions, based on the previous contract for the same commodities or services or, if a previous contract is not available, a contract for similar commodities or services; or
- (2) Is of strategic importance to the state.

**History.** Acts 2019, No. 419, § 12.

### **19-11-278. Vendor training and polling.**

The Office of State Procurement shall:

(1)(A) Develop and deliver vendor training to inform interested vendors of how to do business with the state.

(B) The training required under subdivision (1)(A) of this section shall:

(i) Be offered throughout the state; and

(ii) Be delivered as training sessions in person and online or in another virtual format; and

(2) Periodically poll vendors that have been successful in securing business with the state and vendors that have not been successful in securing business with the state to solicit procurement feedback that can be used to improve vendor training.

**History.** Acts 2019, No. 419, § 12.

### **19-11-279. Requests for information — Definition.**

(a) As used in this section, “request for information” means a procedure for formally requesting information, data, comments, or reactions from prospective bidders or offerors in contemplation of a possible competitive sealed bidding procurement under § 19-11-229 or a competitive sealed proposal procurement under § 19-11-230.

(b) The State Procurement Director, a head of a procurement agency, or a designee of the director or of a head of a procurement agency, may issue or authorize another person to issue a request for information.

(c) A request for information under this section shall be published in the same manner and location as an invitation for bids, a request for proposals, or a request for qualifications.

(d) A contract shall not be awarded directly from a request for information.

(e) Information provided in response to a request for information under this section is exempt from the Freedom of Information Act of 1967, § 25-19-101 et seq., until:

(1) The bids for a competitive sealed bidding procurement are opened publicly;

(2) The notice of anticipation to award is given for a competitive sealed proposal procurement; or

(3) A decision is made not to pursue a procurement based on the request for information.

**History.** Acts 2019, No. 419, § 12.

### **19-11-280. Training and certification of procurement personnel.**

(a) The State Procurement Director shall establish a training and certification program to facilitate the training, continuing education, and certification of state agency procurement personnel.

(b) As part of the training and certification program required under this section, the director:

(1) Shall conduct procurement education and training for state agency employees and other public employees;

(2)(A) Shall establish a tiered core curriculum that outlines the minimum procurement-related training courses a state agency employee is required to complete for certification.

(B) The tiered core curriculum required under subdivision (b)(2)(A) of this section shall:

(i) Be designed to develop procurement competency; and

(ii) Create a uniform training approach for state agency employees ranging from entry-level procurement personnel to agency procurement officials;

(3) May charge a reasonable fee for each participant to cover the cost of providing the training required under this section;

(4) May conduct, develop, and collaborate with established training programs, if any, for the purpose of providing certifications of proficiency to state agency employees who complete the training and certification program;

(5) May conduct research into existing and new procurement methods; and

(6) May establish and maintain a state procurement library.

(c)(1) Beginning July 1, 2021, a state agency employee shall not conduct a procurement under this chapter unless the state agency employee is certified through the training and certification program required under this section.

(2) To maintain certification under this section, a state agency employee shall complete a reasonable number of hours of continuing education, as provided for by rule by the director.

(d)(1) The director shall revoke the certification of a state agency employee who is certified under this section and who is determined to have knowingly violated state procurement laws, Arkansas Code Title 19, Chapter 11.

(2) The director shall adopt rules regarding the procedure for revoking a state agency employee's certification under this section.

**History.** Acts 2019, No. 419, § 12.



### 19-11-281. Cancellation of contract on entry of final business closure order — Definition.

(a) As used in this subchapter, “final business closure order” means a business closure order for which a contractor has either:

- (1) Waived further administrative review under § 26-18-1001 et seq.; or
- (2) Exhausted all remedies to appeal under § 26-18-1001 et seq.

(b) The Revenue Division shall provide to the Office of State Procurement all final business closure orders entered into against a contractor.

(c) Upon receipt of a final business closure order, the office shall, as soon as reasonably practicable:

(1) Notify each state agency with which the contractor has a contract that the:

(A) Contractor is subject to a final business closure order; and

(B) Provision of any goods or services, or both, under a contract with the contractor that is subject to a final business closure order shall cease as soon as reasonably practicable; and

(2) Notify all state agencies that the contractor that is subject to a final business closure order shall not be awarded or maintain a contract with a state agency unless the office provides notice under subsection (d) of this section.

(d) Upon receipt of information that a contractor has resolved a business closure, the office shall notify all state agencies, as soon as reasonably practicable, that:

(1) Any unexpired contracts with the contractor may continue if the contract was not terminated, cancelled, suspended, or discontinued; and

(2) The contractor may be awarded or maintain a contract with a state agency.

**History.** Acts 2019, No. 866, § 1.

**Effective Dates.** Acts 2019, No. 866,  
§ 4: Jan. 1, 2020.

## SUBCHAPTER 6 — FEDERAL GOVERNMENT SURPLUS PROPERTY

### SECTION.

19-11-602. Purchase for schools and school districts.

19-11-605. Authority to transfer excess military property to state and local agencies — Service charge.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that

these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Effi-

ciencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is

declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### **19-11-602. Purchase for schools and school districts.**

(a) The Division of Emergency Management is authorized to purchase surplus commodities, materials, supplies, equipment, and other property from the United States Government through any of its agencies for tax-supported schools and for school districts in Arkansas. The division is authorized to cooperate with the State Procurement Director in the purchase of school items.

(b) Schools and school districts desiring to obtain federal surplus materials, equipment, etc., shall make application to the division on blanks furnished by the division for that purpose.

(c) Schools and school districts making application to the division to purchase surplus materials, equipment, and other property from the federal government shall pay cash for it by drawing a voucher or warrant in favor of the federal government for the purchase price of such materials.

**History.** Acts 1945, No. 303, §§ 1-3; 1953, No. 384, § 17 [18]; A.S.A. 1947, §§ 80-132—80-134; Acts 2009, No. 1187, § 3; 2019, No. 910, § 6113.

**Amendments.** The 2019 amendment,

in (a), substituted "Division of Emergency Management" for "Arkansas Department of Emergency Management" in the first sentence and substituted "division" for "department" in the second sentence.

### **19-11-605. Authority to transfer excess military property to state and local agencies — Service charge.**

The Law Enforcement Support Office may:

(1) Cooperate with the United States Government under 10 U.S.C. § 2576a in the transfer of excess military property to state and local law enforcement agencies:

(A) Whose primary function is the enforcement of applicable federal, state, and local laws; and

(B) Whose compensated law enforcement officers have powers of arrest and apprehension, including without limitation counter-drug and counter-terrorism activities;

(2) Take any action necessary to the proper administration of the acquisition and the distribution of excess military properties to eligible claimants in this state, with distribution to be in accordance with the appropriate controlling federal statutes;

(3) Establish service charges in an amount necessary to cover the expenses of the Department of Public Safety incurred in administering this section; and

(4) Take action as necessary to collect service charges and, from any state moneys over which the department has control, withhold funds



necessary to pay an amount owing by a state or local law enforcement agency.

**History.** Acts 2013, No. 1097, § 1; 2019, No. 910, § 6004.

**Amendments.** The 2019 amendment substituted "Department of Public Safety"

for "Department of Career Education" in the introductory language following "Support Office of the" and in (3).

## SUBCHAPTER 7 — ETHICS

### SECTION.

- 19-11-705. Employee conflict of interest.
- 19-11-706. Employee disclosure requirements.
- 19-11-708. Prohibition against contingent fees.
- 19-11-712. Civil and administrative remedies against employees who breach ethical standards.
- 19-11-713. Civil and administrative remedies against nonemployees who breach ethical standards.

### SECTION.

- 19-11-714. Recovery of value transferred or received in breach of ethical standards.
- 19-11-715. Duties of Secretary of the Department of Transformation and Shared Services.
- 19-11-716. Participation in business incubators — Rules and guidelines.
- 19-11-718. Special state employees — Conflicts of interest — Definitions.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 19-11-705. Employee conflict of interest.

#### (a) CONFLICT OF INTEREST.

(1) It shall be a breach of ethical standards for any employee to participate directly or indirectly in any proceeding or application, in any request for ruling or other determination, in any claim or controversy, or in any other particular matter pertaining to any contract or subcontract, and any solicitation or proposal therefor, in which to the employee's knowledge:

(A) The employee or any member of the employee's immediate family has a financial interest;

(B) A business or organization has a financial interest, in which business or organization the employee, or any member of the employee's immediate family, has a financial interest; or

(C) Any other person, business, or organization with whom the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is a party.

(2) "Direct or indirect participation" shall include, but not be limited to, involvement through decision, approval, disapproval, recommendation, preparation of any part of a procurement request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity.

(b) **FINANCIAL INTEREST IN A BLIND TRUST.** Where an employee or any member of the employee's immediate family holds a financial interest in a blind trust, the employee shall not be deemed to have a conflict of interest with regard to matters pertaining to that financial interest if disclosure of the existence of the blind trust has been made to the Secretary of the Department of Transformation and Shared Services.

(c) **DISCOVERY OF CONFLICT OF INTEREST, DISQUALIFICATION, AND WAIVER.**

Upon discovery of a possible conflict of interest, an employee shall promptly file a written statement of disqualification with the secretary and shall withdraw from further participation in the transaction involved. The employee may, at the same time, apply to the secretary in accordance with § 19-11-715(b) for an advisory opinion as to what further application, if any, the employee may have in the transaction, or for a waiver in accordance with § 19-11-715(c).

**History.** Acts 1979, No. 483, § 4; A.S.A. 1947, § 14-1104; Acts 2019, No. 910, § 3474.

**Publisher's Notes.** In 2021, "Secretary of the Department of Finance and Administration" was changed to "Secretary of the Department of Transformation and Shared Services" in this section at the

direction of the Arkansas Code Revision Commission, pursuant to § 25-43-109.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (b); and substituted "secretary" for "director" twice in (c).

## 19-11-706. Employee disclosure requirements.

(a) **DISCLOSURE OF BENEFIT RECEIVED FROM CONTRACT.** Any employee who has or obtains any benefit from any state contract with a business in which the employee has a financial interest shall report such benefit to the Secretary of the Department of Transformation and Shared Services. However, this section shall not apply to a contract with a business where the employee's interest in the business has been placed in a disclosed blind trust.

(b) **FAILURE TO DISCLOSE BENEFIT RECEIVED.** Any employee who knows or should have known of such benefit and fails to report the benefit to the secretary is in breach of the ethical standards of this section.



**History.** Acts 1979, No. 483, § 5; A.S.A. 1947, § 14-1105; Acts 2019, No. 910, § 3475.

**Publisher's Notes.** In 2021, "Secretary of the Department of Finance and Administration" was changed to "Secretary of the Department of Transformation and Shared Services" in this section at the direction of the Arkansas Code Revision

Commission, pursuant to § 25-43-109.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in the first sentence of (a); and substituted "secretary" for "director" in (b).

### 19-11-708. Prohibition against contingent fees.

(a) **CONTINGENT FEES.** It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business.

(b) **REPRESENTATION OF CONTRACTOR.** Before being awarded a state contract other than by procedures set forth in the Arkansas Procurement Law, § 19-11-201 et seq., and rules promulgated under the Arkansas Procurement Law, § 19-11-201 et seq., for small purchases, every person shall represent, in writing, that such person has not retained anyone in violation of subsection (a) of this section. Failure to do so constitutes a breach of ethical standards.

(c) **NOTICE.** The representation prescribed in subsection (b) of this section shall be conspicuously set forth in all contracts and solicitations therefor.

**History.** Acts 1979, No. 483, § 7; A.S.A. 1947, § 14-1107; Acts 2019, No. 315, § 1785.

**Amendments.** The 2019 amendment substituted "rules" for "regulations" in the first sentence of (b).

### 19-11-712. Civil and administrative remedies against employees who breach ethical standards.

(a) **EXISTING REMEDIES NOT IMPAIRED.** Civil and administrative remedies against employees which are in existence on July 1, 1979, shall not be impaired.

(b) **SUPPLEMENTAL REMEDIES.** In addition to existing remedies for breach of the ethical standards of this subchapter, or rules promulgated under this subchapter, the Secretary of the Department of Transformation and Shared Services may impose any one (1) or more of the following:

- (1) Oral or written warnings or reprimands;
- (2) Forfeiture of pay without suspension;
- (3) Suspension with or without pay for specified periods of time; and
- (4) Termination of employment.

(c) **RIGHT TO RECOVER FROM EMPLOYEE VALUE RECEIVED IN BREACH OF ETHICAL STANDARDS.** The value of anything received by an employee in breach of the ethical standards of this subchapter, or rules promulgated

under this subchapter, shall be recoverable by the state as provided in § 19-11-714, which refers to recovery of value transferred or received in breach of ethical standards.

(d) **DUE PROCESS.** Notice and an opportunity for a hearing shall be provided prior to imposition of any of the remedies set forth in subsection (b) of this section.

**History.** Acts 1979, No. 483, § 11; A.S.A. 1947, § 14-1111; Acts 2019, No. 315, § 1786; 2019, No. 910, § 3476.

**Publisher's Notes.** In 2021, "Secretary of the Department of Finance and Administration" was changed to "Secretary of the Department of Transformation and Shared Services" in this section at the direction of the Arkansas Code Revision Commission, pursuant to § 25-43-109.

**Amendments.** The 2019 amendment by No. 315 substituted "rules" for "regulations" in the introductory language of (b) and in (c).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in the introductory language of (b).

### **19-11-713. Civil and administrative remedies against nonemployees who breach ethical standards.**

(a) **EXISTING REMEDIES NOT IMPAIRED.** Civil and administrative remedies against nonemployees which are in existence on July 1, 1979, shall not be impaired.

(b) **SUPPLEMENTAL REMEDIES.** In addition to the existing remedies for breach of the ethical standards of this subchapter, or rules promulgated under this subchapter, the Secretary of the Department of Transformation and Shared Services may impose any one (1) or more of the following:

- (1) Oral or written warnings or reprimands;
- (2) Termination of transactions; and
- (3) Suspension or debarment from being a contractor or subcontractor under state contracts.

(c) **RIGHT TO RECOVER FROM NONEMPLOYEE VALUE TRANSFERRED IN BREACH OF ETHICAL STANDARDS.** The value of anything transferred in breach of the ethical standards of this subchapter, or rules promulgated under this subchapter, by a nonemployee shall be recoverable by the state from such person as provided in § 19-11-714, which refers to recovery of value transferred or received in breach of ethical standards.

(d) **DUE PROCESS.** Notice and an opportunity for a hearing shall be provided prior to imposition of any of the remedies set forth in subsection (b) of this section.

**History.** Acts 1979, No. 483, § 12; A.S.A. 1947, § 14-1112; Acts 2019, No. 315, § 1787; 2019, No. 910, § 3477.

**Publisher's Notes.** In 2021, "Secretary of the Department of Finance and Administration" was changed to "Secretary of the Department of Transformation and Shared Services" in this section at the

direction of the Arkansas Code Revision Commission, pursuant to § 25-43-109.

**Amendments.** The 2019 amendment by No. 315 substituted "rules" for "regulations" in the introductory language of (b) and in (c).

The 2019 amendment by No. 910 substituted "Secretary of the Department of



Finance and Administration” for “Director of the Department of Finance and Administration” in the introductory language of (b).

#### **19-11-714. Recovery of value transferred or received in breach of ethical standards.**

(a) **GENERAL PROVISIONS.** The value of anything transferred or received in breach of the ethical standards of this subchapter, or rules promulgated under this subchapter, by an employee or a nonemployee may be recovered from both the employee and the nonemployee.

(b) **RECOVERY OF KICKBACKS BY THE STATE.** Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract or order and ultimately borne by the state and will be recoverable under this subchapter from the recipient. In addition, this value may also be recovered from the subcontractor making such kickbacks. Recovery from one (1) offending party shall not preclude recovery from other offending parties.

**History.** Acts 1979, No. 483, § 13; A.S.A. 1947, § 14-1113; Acts 2019, No. 315, § 1788. **Amendments.** The 2019 amendment substituted “rules” for “regulations” in (a).

#### **19-11-715. Duties of Secretary of the Department of Transformation and Shared Services.**

(a) **RULES.** The Secretary of the Department of Transformation and Shared Services shall promulgate rules to implement this subchapter and shall do so in accordance with this subchapter and the applicable provisions of the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(b) **ADVISORY OPINIONS.** On written request of employees or contractors and in consultation with the Attorney General, the secretary may render written advisory opinions regarding the appropriateness of the course of conduct to be followed in proposed transactions. Such requests and advisory opinions may be duly published in the manner in which rules of this state are published. Compliance with the requirements of a duly promulgated advisory opinion of the secretary shall be deemed to constitute compliance with the ethical standards of this subchapter.

(c) **WAIVER.** On written request of an employee, the secretary may grant an employee a written waiver from the application of § 19-11-705, which refers to employee conflict of interest, and grant permission to proceed with the transaction to such extent and upon such terms and conditions as may be specified. Such waiver and permission may be granted when the interests of the state so require or when the ethical conflict is insubstantial or remote.

**History.** Acts 1979, No. 483, § 14; A.S.A. 1947, § 14-1114; Acts 2019, No. 315, § 1789; 2019, No. 910, § 3478. **Publisher’s Notes.** In 2021, “Secretary of the Department of Finance and Administration” was changed to “Secretary of

the Department of Transformation and Shared Services" in this section at the direction of the Arkansas Code Revision Commission, pursuant to § 25-43-109.

**Amendments.** The 2019 amendment by No. 315 substituted "rules" for "regulations" in (a) and (b).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (a) and made a similar change in the section heading; and substituted "secretary" for "director" in (b) twice and in (c).

### **19-11-716. Participation in business incubators — Rules and guidelines.**

(a) The provisions of this subchapter shall not be applicable to faculty or staff of state-supported institutions of higher education participating in business incubators within this state.

(b)(1) The Secretary of the Department of Transformation and Shared Services shall promulgate rules pursuant to the procedure for adoption as provided under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., and under § 10-3-309 to implement a program allowing admittance to business incubators by faculty or staff of state-supported institutions of higher education or admittance by companies in which faculty or staff may hold an ownership interest.

(2) The program may include guidelines setting forth full disclosure requirements, any limitations on ownership interests, maximum income amounts to be received, annual reporting to the General Assembly, mandatory levels of student participation and such other reasonable restrictions and requirements as are necessary to maintain the public trust while encouraging the facilitation of commercialization of university-generated technology or discovery.

**History.** Acts 1989, No. 29, § 1; 2019, No. 315, § 1790; 2019, No. 910, § 3479.

**Publisher's Notes.** In 2021, "Secretary of the Department of Finance and Administration" was changed to "Secretary of the Department of Transformation and Shared Services" in this section at the direction of the Arkansas Code Revision Commission, pursuant to § 25-43-109.

**Amendments.** The 2019 amendment by No. 315 deleted "and regulations" following "rules" in (b)(1).

The 2019 amendment by No. 910 substituted "Secretary of the Department of Finance and Administration" for "Director of the Department of Finance and Administration" in (b)(1).

### **19-11-718. Special state employees — Conflicts of interest — Definitions.**

(a) As used in this section:

(1)(A) "Conflict of interest" means a special state employee's direct or indirect pecuniary or other interest in a matter before a covered board.

(B) "Conflict of interest" includes without limitation the following:

(i) An offer of employment from an entity that is involved in a procurement matter with the covered board or is involved in a discussion of a procurement matter with the covered board;



(ii) Being an officer or employee of a business, association, or nonprofit organization that is involved in a procurement matter with the covered board or is involved in a discussion of a procurement matter with the covered board; and

(iii) Receiving compensation from an entity that is involved in a procurement matter or is involved in a discussion of a procurement matter with the covered board;

(2)(A) "Covered board" means:

(i) A commission, board, bureau, office, or other state instrumentality created within the executive branch; and

(ii) An entity that is created by rule, statute, legislative direction, executive order, or other informal means if the entity has decision-making authority over procurement criteria, contracts, appointment of individuals to negotiate procurement directly or indirectly, or the approval of procurements.

(B) "Covered board" does not include the following:

(i) The constitutional departments of the state;

(ii) The elected constitutional offices of the state;

(iii) The General Assembly, including the Legislative Council, the Legislative Joint Auditing Committee, and supporting agencies and bureaus of the General Assembly;

(iv) The Supreme Court;

(v) The Court of Appeals;

(vi) The circuit courts;

(vii) Prosecuting attorneys;

(viii) The Administrative Office of the Courts;

(ix) An institution of higher education;

(x) A municipal government;

(xi) A county government;

(xii) An interstate agency; or

(xiii) A legislative task force or committee if the legislative task force or committee only advises the General Assembly; and

(3)(A) "Special state employee" means a person appointed to a covered board, regardless of whether the person:

(i) Receives compensation for his or her services;

(ii) Receives reimbursement for travel expenses;

(iii) Receives per diem; or

(iv) Was appointed formally or informally.

(B) "Special state employee" does not include a constitutional officeholder or an ex officio or nonvoting member of an entity described in subdivision (a)(2)(A) of this section.

(b) A special state employee shall disclose a conflict of interest in a procurement matter before the covered board:

(1) Either:

(A) In writing to the head of a covered board; or

(B) Orally or in writing at a public meeting of the covered board if the disclosure is included in the minutes of the public meeting; and

(2) By filing a conflict of interest disclosure report with the Secretary of State within five (5) business days of the date the special state employee becomes aware of the conflict of interest.

(c) A special state employee shall not vote on, receive or read confidential materials related to, participate in discussion of, or attempt to influence the covered board's decision on a procurement matter if the special state employee has a conflict of interest in the procurement matter.

(d) A special state employee who is a lobbyist registered under § 21-8-601 shall recuse himself or herself from a procurement matter before the covered board if:

(1) The special state employee receives compensation as a lobbyist from an entity involved in the procurement matter; or

(2) The procurement matter involves a person or entity that is a competitor of a lobbying client of the special state employee.

(e) A special state employee or former special state employee shall not:

(1) Represent an entity other than the state in a matter in which he or she participated in making a decision, rendering approval or disapproval, making a recommendation, or rendering advice on behalf of the covered board; or

(2) Assist or represent a party for contingent compensation in a matter involving a covered board other than in a judicial, administrative, or quasi-judicial proceeding.

(f) A former special state employee shall not lobby the members or staff of a covered board of which he or she is a former member for one (1) year after the cessation of the special state employee's membership on the covered board.

(g) A contract entered into by a covered board, including a renewal, extension, or amendment of a contract entered into by a covered board, shall include a statement that no special state employee has been influenced by the vendor in the course of the procurement.

(h)(1) A complaint about a violation of this section may be filed with the Arkansas Ethics Commission.

(2) A violation of this section is grounds for discipline or removal of the special state employee by the commission.

(i) The commission shall promulgate rules regarding disciplinary and removal proceedings for special state employees.

**History.** Acts 2015, No. 1287, § 2; substituted "rule" for "regulation" in 2019, No. 315, § 1791.

(a)(2)(A)(ii).

**Amendments.** The 2019 amendment



**SUBCHAPTER 8 — PROCUREMENT OF PROFESSIONAL SERVICES****SECTION.**

19-11-801. Policy — Definitions.

19-11-802. Annual statements of qualifications and performance data — Restrictions on competitive bidding.

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**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

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**19-11-801. Policy — Definitions.**

(a) It is the policy of the State of Arkansas that state agencies shall follow the procedures stated in this section, except that competitive bidding shall not be used for the procurement of legal, architectural, engineering, construction management, and land surveying professional consultant services if:

(1) State agencies not exempt from review and approval of the Building Authority Division shall follow procedures established by the division for the procurement of architectural, engineering, land surveying, and construction management services; and

(2) Institutions of higher education exempt from review and approval of the division shall follow procedures established by their governing boards for the procurement of architectural, engineering, land surveying, and construction management professional consultant services.

(b) It is the policy of the State of Arkansas and its political subdivisions that political subdivisions shall follow the procedures stated in this section, except that competitive bidding shall not be used for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consultant services.

(c) For purposes of this subchapter, a political subdivision of the state may elect to not use competitive bidding for other professional services not listed in subsection (b) of this section with a two-thirds ( $\frac{2}{3}$ ) vote of the political subdivision’s governing body.

(d)(1) As used in this section, “construction management” means a project delivery method based on an agreement in which a state agency, political subdivision, public school district, or institution of higher education acquires from a construction entity a series of services that include, but are not limited to, design review, scheduling, cost control, value engineering, constructability evaluation, preparation and coordination of bid packages, and construction administration.

(2) “Construction management” includes, but is not limited to:

(A)(i) “Agency construction management”, in which a public school district selects a construction manager to serve as an agent for the purpose of providing administration and management services.

(ii) The construction manager shall not hold subcontracts for the project or provide project bonding for the project;

(B) “At-risk construction management”, in which the construction entity, after providing agency services during the preconstruction period, serves as the general contractor and the following conditions are met:

(i) The construction manager provides a maximum guaranteed price;

(ii) The public school district holds all trade contracts and purchase orders; and

(iii) The portion of the project not covered by the trade contracts is bonded and guaranteed by the construction manager; and

(C)(i) “General contractor construction management”, in which the construction entity, after providing agency services during the preconstruction period, serves as the general contractor.

(ii) The general contractor shall hold all trade contracts and purchase orders and shall bond and guarantee the project.

(e) As used in this subchapter:

(1) “Political subdivision” means counties, school districts, cities of the first class, cities of the second class, and incorporated towns; and

(2) “Other professional services” means professional services not listed in subsection (b) of this section as defined by a political subdivision with a two-thirds (2/3) vote of its governing body.

**History.** Acts 1989, No. 616, § 1; 1995, No. 429, § 1; 1995, No. 1331, § 1; 2003, No. 1315, § 8; 2005, No. 2154, § 1; 2005, No. 2171, § 1; 2019, No. 910, § 6114.

**Amendments.** The 2019 amendment deleted “of the Department of Finance and Administration” following “Building Authority Division” in (a)(1).

## **19-11-802. Annual statements of qualifications and performance data — Restrictions on competitive bidding.**

(a) In the procurement of professional services, a state agency or political subdivision which utilizes these services may encourage firms engaged in the lawful practice of these professions to submit annual statements of qualifications and performance data to the political subdivision or may request such information as needed for a particular public project.



(b) The state agency or political subdivision shall evaluate current statements of qualifications and performance data of firms on file or may request such information as needed for a particular public project whenever a project requiring professional services is proposed.

(c)(1) The political subdivision shall not use competitive bidding for the procurement of legal, financial advisory, architectural, engineering, construction management, and land surveying professional consulting services.

(2) A political subdivision shall not use competitive bidding for the procurement of other professional services with a two-thirds ( $\frac{2}{3}$ ) vote of its governing body.

(d)(1) A public school district that utilizes construction management services shall encourage construction management firms to submit to the school district annual statements of qualifications and performance data or may request such information as needed for a particular public project.

(2) The public school district shall evaluate current statements of qualifications and performance data on file with the school district or when submitted as requested whenever a project requiring professional services of a construction manager is proposed.

(3) The public school district shall not use competitive bidding for the procurement of professional services of a construction manager.

(e)(1) A request for statements of qualifications and performance data under this section may be used for certain procurements through a request for qualifications other than legal, architectural, engineering, construction management, land surveying, and interior design services if the:

(A) State Procurement Director approves the use of a request for qualifications and determines that it is the most suitable method of procurement; and

(B) Approval of the director under subdivision (e)(1)(A) of this section is submitted to the Legislative Council for review.

(2) In determining whether a request for qualifications under this subsection is the most suitable method of procurement, the director shall consider, based on information submitted by the requesting state agency:

(A) Why the request for qualifications is the most suitable method of procurement;

(B) Why cost should not be considered in the procurement; and

(C) How the cost of the contract will be controlled if cost is not a factor in the procurement.

**History.** Acts 1989, No. 616, § 2; 1995, No. 429, § 2; 1995, No. 1331, § 2; 2003, No. 1315, § 9; 2005, No. 2171, § 2; 2019, No. 419, § 13.

**A.C.R.C. Notes.** Acts 2019, No. 419, § 14, provided: "Rules.

"(a) When adopting the initial rules re-

quired under this act, the State Procurement Director shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

"(1) On or before January 1, 2021; or

"(2) If approval under § 10-3-309 has not occurred by January 1, 2021, as soon

as practicable after approval under § 10-3-309.

“(b) The director shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of

January 1, 2021, so that the Legislative Council may consider the rules for approval before January 1, 2021.”

**Amendments.** The 2019 amendment added (e).

## SUBCHAPTER 9 — PURCHASES OF WORK CENTER PRODUCTS AND SERVICES

### SECTION.

#### 19-11-902. Rules — Definitions.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled ‘Funding and

classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

#### 19-11-902. Rules — Definitions.

(a) The Office of State Procurement shall be responsible for developing rules governing implementation of this subchapter.

(b) As used in this subchapter:

(1) “Commodities” means all property, including without limitation equipment, printing, stationery, supplies, and insurance, but excluding real property, leases on real property, or a permanent interest in real property;

(2) “Fiscal year” means July 1 of one (1) year through June 30 of the next year;

(3) “Individuals with disabilities” means those persons who have a medically or psychiatrically determined physical, mental, or developmental disability constituting a substantial vocational handicap;

(4) “Ordering office” means any state department, independent establishment, board, commission, bureau, service, or division of state government and any wholly owned state corporation;

(5) “Products”, for purposes of this subchapter, means commodities or services wherein the price of the commodities includes at least twenty percent (20%) value added when the work center is awarded a contract using the ten percent (10%) preference, and in the case of services, that they are performed by individuals with disabilities;

(6)(A) “Services” means the furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other



than reports which are merely incidental to the required performance.

(B) "Services" shall not include employment agreements, collective bargaining agreements, or architectural or engineering contracts requiring approval of the Building Authority Division;

(7) "Sheltered workshop" means a work center which has:

(A) Certification from the United States Department of Labor as a sheltered workshop; and

(B) Been licensed by the Division of Developmental Disabilities Services or certified by Arkansas Rehabilitation Services;

(8)(A) "Work center" means any facility certified by Arkansas Rehabilitation Services where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing evaluation, training, and gainful employment to individuals with disabilities in Arkansas:

(i) As an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market; or

(ii) During such time as employment opportunities for them in the competitive labor market do not exist.

(B) "Work center" includes without limitation:

(i) A sheltered work center; and

(ii) A work center for the blind; and

(9) "Work center for the blind" means a facility certified by the Division of State Services for the Blind where any manufacture, handiwork, or provision of services is carried on and that is operated to provide evaluation, training, and gainful employment to individuals in the State of Arkansas eligible for services from the Division of State Services for the Blind:

(A) As an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market;

(B) During such time as employment opportunities for individuals in the State of Arkansas eligible for service from the Division of State Services for the Blind in the competitive labor market do not exist; or

(C) For whom such placement represents informed choice as appropriate employment at a competitive wage.

(c) All state agencies as defined in § 19-11-203 are required to purchase their requirements of needed available and suitable products and purchase suitable services from nonprofit work centers for individuals with disabilities, unless such commodities and services are authorized by prior legislation for production in another state agency, department, or institution.

(d)(1) The Office of State Procurement shall issue to all state agency purchasing agents a schedule of commodities and services made by the work center and the conditions under which they are to be procured from the workshops.

(2) The schedule shall include the item or service description.

(e) Arkansas Rehabilitation Services and the Division of State Services for the Blind shall undertake the inspection on a continuing basis

of the workshops certified by each respective state agency to determine that they operate in accordance with the requirements of the statute and the rules of this section.

(f)(1)(A) In order to qualify for participation in the program as a work center, an organization shall submit an application to the Office of State Procurement.

(B) If required for all vendors, there should be included a list of the commodities and services offered for sale to the state.

(2) Work centers shall:

(A) Furnish commodities and services in strict accordance with the allocation and government order;

(B) Maintain records of wages paid, hours of employment, and sales;

(C) Make available pertinent books and records of the state agency for inspection at any reasonable time to representatives of Arkansas Rehabilitation Services or the Division of State Services for the Blind, as applicable; and

(D)(i) Submit to Arkansas Rehabilitation Services or the Division of State Services for the Blind, as applicable, by September 1 an annual report for the preceding fiscal year.

(ii) This report shall include data on individuals with disabilities who are workers, wages and wage supplements, hours of employment, sales, whether the workshop requires a facilities sheltered workshop certificate from the United States Department of Labor and special minimum rates authorized where such certificate is held, and such other relevant information as may be required.

(g) When a commodity or service is identified in the schedule of work center-made commodities and services as being available through the Office of State Procurement, it shall be obtained in accordance with the requisitioning procedures of the supplying state agency.

(h) An ordering office may purchase from a nonworkshop source commodities or services listed in the schedule of commodities and services made by the work center in any of the following circumstances:

(1) Necessity requires delivery within the specified period, and the work center cannot give assurance of positive availability;

(2) When commodities listed on the schedule of work center-made commodities can be purchased from a non-work-center source by the state agency for a price more than ten percent (10%) lower than commodities made by the work center included in the schedule; or

(3) Services offered by any work center shall be procured by any state agency in accordance with this section at a price not more than ten percent (10%) above the lowest price submitted from a non-work-center source.

(i) Product commodities made by a work center shall be delivered in accordance with the terms of the purchase order.

(j) When a workshop fails to comply with the terms of a government order, the ordering office shall make reasonable efforts to negotiate an adjustment before taking action to cancel the order.



(k) Any alleged violation of these rules shall be investigated by the Office of State Procurement, which shall notify the work center concerned and afford it an opportunity to submit a statement of facts and evidence.

**History.** Acts 2001, No. 1718, § 1; 2007, No. 186, § 7; 2011, No. 807, § 1; 2019, No. 315, §§ 1792, 1793; 2019, No. 910, § 6115.

**Amendments.** The 2019 amendment by No. 315 substituted “rules” for “regulations” in (e) and (k).

The 2019 amendment by No. 910 deleted “of the Department of Finance and Administration” following “Building Authority Division” in (b)(6)(B).

## SUBCHAPTER 10 — PROFESSIONAL AND CONSULTANT SERVICES CONTRACTS

### SECTION.

- 19-11-1001. Definitions.
- 19-11-1003. Contracts exempted.
- 19-11-1004. Restrictions on contracts.
- 19-11-1005. General guidelines and rules.
- 19-11-1006. [Repealed.]
- 19-11-1007. Certification by agency head.
- 19-11-1008. Approval or disapproval of contracts.

### SECTION.

- 19-11-1010. [Repealed.]
- 19-11-1011. Review requirement.
- 19-11-1012. Standard contract forms.
- 19-11-1013. [Repealed.]
- 19-11-1014. Compliance reporting — Definition.
- 19-11-1015. Cancellation of contract on entry of final business closure order — Definition.

**Effective Dates.** Acts 2017, No. 365, § 29: July 1, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the fiscal year for employees begins on July 1 of every year and that the implementation of the Uniform Classification and Compensation Act is necessary to ensure the continued services and operations of the state. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2017.”

Acts 2019, No. 866, § 4: Jan. 1, 2020.

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state

entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled ‘Funding and classification of cabinet-level department secretaries’ and ‘Transformation and Efficiencies Act transition team’ should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.”

### 19-11-1001. Definitions.

As used in this subchapter:

(1) “Consultant services contract” means a contract between a state agency and an individual or organization in which:

(A) The service to be rendered to the state agency or to a third-party beneficiary under the contract is primarily the giving of advice by the contractor on a particular problem facing the state agency or the third-party beneficiary;

(B) The contractor is an independent contractor with respect to the state agency;

(C) The state agency does not exercise managerial control over the day-to-day activities of the contractor; and

(D) The contract specifies the results expected from the services to be rendered by the contractor and the advice or assistance to be provided;

(2) "Contractor" means any person or organization that executes a contract with a state agency under which the person or organization agrees to provide professional services or consultant services to the state agency, and the individuals performing the services are not state employees occupying regular full-time or part-time or extra help positions provided by law;

(3)(A) "Design professional contract" means a contract that is primarily for:

(i) Minor projects that are time-critical; and

(ii) Minor remodeling projects that do not exceed one million dollars (\$1,000,000) in cost.

(B) Design professional contracts are primarily for the procurement of architectural, engineering, and professional services competitively selected under § 19-11-801 et seq.

(C) Design professional contracts shall be reviewed by the agency or institution at least yearly and adjusted to reflect historical expenditures.

(D)(i) A state agency shall follow applicable Building Authority Division guidelines, procedures, and rules for the selection and award of contracts.

(ii) However, a guideline, procedure, or rule of the division shall not increase or decrease the:

(a) Dollar amount under subdivision (3)(A)(ii) of this section; or

(b) Specified period under § 19-11-238(a).

(E) Institutions of higher education that are exempt from review and approval of the division shall comply with the provisions of this section;

(4) "Director" means the State Procurement Director;

(5) "Employee" means an individual drawing a salary from a state agency, whether elected or not, and any nonsalaried individual performing professional services for any state agency;

(6) "Professional services contract" means a contract between a state agency and a contractor in which:

(A) The relationship between the contractor and the state agency is that of an independent contractor rather than that of an employee;

(B) The services to be rendered consist of the personal services of an individual that are professional in nature;



(C) The state agency does not have direct managerial control over the day-to-day activities of the individual providing the services;

(D) The contract specifies the results expected from the rendering of the services rather than detailing the manner in which the services shall be rendered; and

(E) Services rendered under a professional services contract are rendered to the state agency itself or to a third-party beneficiary; and

(7) "State agency" means any department, agency, board, commission, or institution of higher education of the State of Arkansas.

**History.** Acts 2003, No. 1315, § 13; deleted "of the Department of Finance and 2007, No. 478, § 7; 2009, No. 532, § 1; Administration" following "Building Authority Division" in (3)(D)(i). 2019, No. 910, § 6116.

**Amendments.** The 2019 amendment

### 19-11-1003. Contracts exempted.

(a) This subchapter shall not apply to the contracts of the Arkansas Department of Transportation that are covered by the technical work requirements and administrative controls of the Federal Highway Administration, nor shall the provisions of this subchapter be applicable to contracts entered into by the department in which the costs and fees are established by competitive bidding.

(b) This subchapter shall not apply to contracts of institutions of higher education that are for services related to patents, copyrights, or trademarks.

(c) This subchapter does not apply to contracts created under federally approved state plans for services reimbursed under Title V of the Social Security Act, 42 U.S.C. §§ 701 — 710, or Title XIX of the Social Security Act, 42 U.S.C. §§ 1396 — 1396v, as they existed on January 1, 2001, if those contracts and services conform to all applicable federal laws and rules, and to the ethical standards provided for in § 19-11-704.

**History.** Acts 2003, No. 1315, § 13; substituted "Department of Transportation" for "State Highway and Transportation 2009, No. 605, § 22; 2009, No. 606, § 22; tion Department" in (a). 2015, No. 218, § 23; 2017, No. 707, § 60.

**Amendments.** The 2017 amendment

### 19-11-1004. Restrictions on contracts.

(a) No contract under this subchapter shall be used to avoid the purpose or the spirit of the General Accounting and Budgetary Procedures Law, § 19-4-101 et seq.

(b) No contract shall be approved that would be in violation of § 19-4-701 et seq. relating to expenditures.

(c)(1) Except as provided in this subsection, a state agency shall not engage in a professional services or consultant services contract with a part-time or full-time employee who occupies a position authorized to be paid from extra help or regular salaries for a state agency, except as provided in § 21-1-403.

(2) However, this subsection does not prohibit an institution of higher education from executing a contract with a state agency under which professional or consulting services will be performed by employees of the institution of higher education.

(3) An employee of an institution of higher education performing professional or consulting services to a state agency may receive additional compensation if:

(A) The institution of higher education requests and receives written approval from the Director of the Division of Higher Education concerning the amount of additional compensation to be paid to any employee; and

(B) The total salary payments received from the employee's regular salaried position and amounts received for services performed under a professional services contract do not exceed one hundred twenty-five percent (125%) of the maximum annual salary authorized by law for the employee's position with the institution of higher education.

(d) No director or any other department head of any state agency shall receive additional compensation under this subchapter.

(e)(1) Any contract under which a state agency retains day-to-day managerial control over the person performing the services or in which the relationship between the contractor and the state agency is that of employer and employee is not a professional services contract and is prohibited.

(2) However, the Division of Information Systems may employ persons over whom they exercise day-to-day managerial control for those services under § 25-4-112 for which professional services contracts may be used.

**History.** Acts 2003, No. 1315, § 13; 2017, No. 365, § 6; 2019, No. 910, § 2277.

**Amendments.** The 2017 amendment substituted "a state agency shall not" for "no state agency shall" in (c)(1); and substituted "Director of the Department of

Higher Education" for "Office of Personnel Management" in (c)(3)(A).

The 2019 amendment substituted "Division of Higher Education" for "Department of Higher Education" in (c)(3)(A).

### 19-11-1005. General guidelines and rules.

The State Procurement Director, after soliciting suggestions from state agencies and after seeking and receiving the advice of the Attorney General and review by the Legislative Council or by the Joint Budget Committee, if the General Assembly is in session, shall publish general guidelines for the procurement of professional and consultant services contracts and general rules governing the use of each type of contract.

**History.** Acts 2003, No. 1315, § 13; 2019, No. 315, § 1794.

**Amendments.** The 2019 amendment

substituted "rules" for "regulations" in the section heading and in the text.



**19-11-1006. [Repealed.]**

**Publisher's Notes.** This section, concerning submission of contracts being required, was repealed by Acts 2019, No. 417, § 9, effective July 24, 2019. The section was derived from Acts 2003, No. 1315, § 13; 2013, No. 1189, § 4; 2015, No. 557, § 7.

**19-11-1007. Certification by agency head.**

The head of every state agency shall certify by his or her signature on each contract entered into by that state agency that:

- (1) All information required by law and by rule is supplied;
- (2) The proper contracting form is utilized;
- (3) All information contained in the contract is true and correct to the best of his or her knowledge and belief;
- (4) All general guidelines prescribed by the State Procurement Director have been complied with;
- (5) The services proposed to be provided under the contract are necessary for operation of the state agency in fulfilling its legal responsibilities and cannot be provided by any existing state agency;
- (6) The contractor is fully qualified to perform the contract and has no vested interest in the subject matter of the contract that would constitute a conflict of interest and a bar to the contractor's providing services of a professional and disinterested quality;
- (7) The contract terms are reasonable and the benefits to be derived are sufficient to warrant the expenditure of the funds called for in the contract;
- (8) Sufficient funds are available to pay the obligations when they become due; and
- (9) A projected total cost of the contract is provided to include expenditures that may be incurred under all available periods of extension if the extensions were executed.

**History.** Acts 2003, No. 1315, § 13; **Amendments.** The 2019 amendment 2005, No. 1680, § 15; 2019, No. 315, substituted "rule" for "regulation" in (1). § 1795.

**19-11-1008. Approval or disapproval of contracts.**

(a) The State Procurement Director may make whatever additional inquiry he or she deems necessary and may require that additional information be supplied if he or she has reason to believe that the contract should be rejected because it does not comply with this subchapter.

(b) The director shall return to the contracting state agency any contract which fails to comply with the applicable laws and rules governing the contract and shall approve any contract that complies with this subchapter.

(c)(1) The director shall have final and ultimate authority over the supervision and approval of all contracts described in this subchapter.

(2) However, the director shall seek review of the Legislative Council or the Joint Budget Committee before approving or disapproving any contract or class or group of contracts authorized under this subchapter, unless the Legislative Council or Joint Budget Committee specifically exempts the contract or class or group of contracts by formal committee action.

**History.** Acts 2003, No. 1315, § 13; 2019, No. 315, § 1796.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (b).

### 19-11-1010. [Repealed.]

**A.C.R.C. Notes.** The repeal of this section by Acts 2019, No. 418, supersedes the amendment of this section by Acts 2019, No. 315. Acts 2019, No. 315, § 1797, amended subsection (c) to read as follows: “(c) Under rules promulgated by the State Procurement Director, all state agencies, boards, commissions, and institutions of higher education shall use performance-

based standards in professional and consultant service contracts.”

**Publisher’s Notes.** This section, concerning development and use of performance-based contracts and findings, was repealed by Acts 2019, No. 418, § 6, effective July 24, 2019. The section was derived from Acts 2003, No. 1315, § 13; 2019, No. 315, § 1797.

### 19-11-1011. Review requirement.

(a)(1) Every contract for professional consultant services covered by this subchapter that is executed using the professional and consultant service contract form approved by the State Procurement Director shall be filed with the Office of State Procurement.

(2) The execution date of all contracts shall be defined as the date upon which performance of the services to be rendered under the contract is to begin and not the date upon which the agreement was made.

(b)(1) No purchase order shall be paid if a copy of the contract under which the payment is being made has not previously been filed with the Office of State Procurement.

(2) No payment shall be made covering services rendered prior to the execution date of the contract.

(c)(1) It is the intent of the General Assembly that this section be strictly construed and enforced.

(2) However, in the unusual event that an obligation has been incurred by a state agency under any contractual agreement or proposed contract prior to the approval of the contract, the Chief Fiscal Officer of the State may approve payment for such services after having first received the review of the Legislative Council.

**History.** Acts 2003, No. 1315, § 13; 2005, No. 1680, § 16; 2019, No. 910, § 6117.

deleted “of the Department of Finance and Administration” following “Office of State Procurement” in (a)(1).

**Amendments.** The 2019 amendment



**19-11-1012. Standard contract forms.**

(a) The State Procurement Director shall prescribe standard forms to be utilized by all state agencies.

(b) The standard contract form shall include the following items, plus such additional items as the director shall deem desirable for the purposes of this subchapter:

(1) A section setting forth in reasonable detail the objectives and scope of the contractual agreement and the methods to be used to determine whether the objectives specified have been achieved;

(2) The rates of compensation, transportation, per diem, subsistence, out-of-pocket allowances, and all other items of costs contemplated to be paid the contractor by the state agency;

(3) The method by which the rate of compensation and the total payment shall be calculated;

(4) The maximum number of dollars which the state agency may be obligated to pay to the contractor under the terms of the contract, including all expenses and other items of costs, and the source of funding to be utilized;

(5) The term of the contract;

(6)(A) The names of all individuals who will be supplying services to the state agency or to third-party beneficiaries under the terms of the contracts, so far as those names are known to the contractor at the time of the execution of the contract.

(B) If the names of all individuals supplying services under the contract are not available at the time of the execution of the contract, the contract shall contain a provision requiring the contractor to submit periodically the names of individuals supplying services as soon as the identity of those individuals is known to the contractor;

(7) When the contractor is a business entity, the federal identification number of the business entity shall be listed on the contract form;

(8)(A) A certification signed by the contractor shall be included as follows:

“ \_\_\_\_\_ (name) \_\_\_\_\_ (title)

I \_\_\_\_\_, certify under penalty of perjury that, to the best of my knowledge and belief, no regular full-time or part-time employee of any state agency of the State of Arkansas will receive any personal, direct, or indirect monetary benefits which would be in violation of the law as a result of the execution of this contract.”

(B) As used in subdivision (b)(8)(A) of this section, it shall be understood that when the contractor is a widely held public corporation “direct or indirect monetary benefit” shall not apply to any regular corporate dividends paid to a stockholder of the corporation who is also a state employee and who owns less than ten percent (10%) of the total outstanding stock of the contracting corporation;

(9)(A) For any contract in which the total compensation exclusive of reimbursable expenses to be paid by the state agency does not exceed fifty thousand dollars (\$50,000), a purchase order may be utilized in lieu of the standard form or forms prescribed by the director.

(B)(i) However, should the state agency enter into a subsequent contract with the same individual or organization during the same fiscal year, regardless of the nature of the contract, then the details of the original contract which utilized a purchase order form and of all subsequent contracts, regardless of amount or type, shall be promptly reported to the director.

(ii) This reporting shall be done to allow the director to determine whether the state agency is utilizing a series of contracts to avoid the use of the standard form and to avoid the application of appropriate rules;

(10) Standard contract forms in use by licensed practitioners such as architects and engineers may be used to supplement the standard contract forms; and

(11) All professional consultant services contracts shall contain the following clause:

“In the event the State of Arkansas fails to appropriate funds or make moneys available for any biennial period covered by the term of this contract for the services to be provided by the contractor, this contract shall be terminated on the last day of the last biennial period for which funds were appropriated or moneys made available for such purposes.

“This provision shall not be construed to abridge any other right of termination the agency may have.”

(c) For the purpose of reporting methods of finance, a state agency shall disclose the total estimated project cost in addition to any other reporting requirements of the Legislative Council or the Joint Budget Committee.

**History.** Acts 2003, No. 1315, § 13; 2005, No. 1680, § 17; 2013, No. 1189, § 5; 2019, No. 315, § 1798.

**Amendments.** The 2019 amendment substituted “rules” for “regulations” in (b)(9)(B)(ii).

### 19-11-1013. [Repealed.]

**Publisher’s Notes.** This section, concerning vendor performance reporting, was repealed by Acts 2019, No. 418, § 7,

effective July 24, 2019. The section was derived from Acts 2015, No. 557, § 8.

### 19-11-1014. Compliance reporting — Definition.

(a) Each report required under this subchapter shall be copied to the Secretary of the Department of Transformation and Shared Services, who shall review each report for compliance with the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-601 et seq.

(b) If the secretary determines that a state agency, agency procurement official, or state official or employee may be in violation of the fiscal responsibility and management laws of the state under the State Fiscal Management Responsibility Act, § 19-1-601 et seq., the secretary shall notify the chief executive officer of the relevant state agency.



**History.** Acts 2015, No. 557, § 8; 2019, No. 910, § 3480. of Transformation and Shared Services” for “Director of the Department of Finance and Administration” in (a); and substituted “Secretary of the Department” for “director” twice in (b).

**Amendments.** The 2019 amendment substituted “Secretary of the Department” for “director” twice in (b).

### **19-11-1015. Cancellation of contract on entry of final business closure order — Definition.**

(a) As used in this subchapter, “final business closure order” means a business closure order for which a contractor has either:

(1) Waived further administrative review under § 26-18-1001 et seq.; or

(2) Exhausted all remedies to appeal under § 26-18-1001 et seq.

(b) The Revenue Division shall provide to the Office of State Procurement all final business closure orders entered into against a contractor.

(c) Upon receipt of a final business closure order, the office shall, as soon as reasonably practicable:

(1) Notify each state agency with which the contractor has a contract that the:

(A) Contractor is subject to a final business closure order; and

(B) Provision of any goods or services, or both, under a contract with the contractor that is subject to a final business closure order shall cease as soon as reasonably practicable; and

(2) Notify all state agencies that the contractor that is subject to a final business closure order shall not be awarded or maintain a contract with a state agency unless the office provides notice under subsection (d) of this section.

(d) Upon receipt of information that a contractor has resolved a business closure, the office shall notify all state agencies, as soon as reasonably practicable, that:

(1) Any unexpired contracts with the contractor may continue if the contract was not terminated, cancelled, suspended, or discontinued; and

(2) The contractor may be awarded or maintain a contract with a state agency.

**History.** Acts 2019, No. 866, § 2.

**Effective Dates.** Acts 2019, No. 866, § 4: Jan. 1, 2020.

## **SUBCHAPTER 11 — PURCHASE OF TECHNOLOGY SYSTEMS**

### **SECTION.**

19-11-1101. Contracts.

### **19-11-1101. Contracts.**

(a) An agency procurement official or procurement agent may enter into contracts to acquire technology systems for performing the rev-

enue-generating functions and duties of the agency, including, but not limited to, registration, processing, and collection functions.

(b) Any contract entered into under this subchapter between an agency procurement official or procurement agent and a vendor of technology systems shall provide for:

(1) Payment of the technology systems on the basis of a percentage of the increase in the amount of specific taxes or fees collected, including interest and penalties thereon, for a fixed time period, which increase exceeds revenues projected prior to the project and is attributable to the implementation and use of the technology system; or

(2) Payment of the technology system on a fixed fee contract basis, the fee to be paid from the increase in the amount of specific taxes or fees collected, including interest and penalties thereon, which increase exceeds revenues projected prior to the project and is attributable to the implementation and use of the technology system.

(c)(1) All contracts authorized by this subchapter shall be entered into pursuant to the requirements of the Arkansas Procurement Law, § 19-11-201 et seq., and amendments thereto.

(2) Prior to execution of the contract, the following process shall be followed:

(A) The requesting agency shall request approval from the Secretary of the Department of Transformation and Shared Services to prepare a request for proposal for a project authorized under this subchapter;

(B) The request shall include the general nature of the project, the anticipated revenues that will be enhanced, and the forecasted revenues for the current biennium;

(C) Upon approval of the Secretary of the Department of Transformation and Shared Services, the requesting agency shall prepare a request to the Department of Finance and Administration for approval to prepare a request for proposal for a technology project authorized under this subchapter;

(D) The request must include the revenue source or sources that will be increased as a result of the project and the projected revenues for the anticipated life of the project;

(E) The requesting agency shall prepare a request for proposal, with advice and consultation from the department, for the purchase of technology systems on the basis of a portion of the increase in the agency's revenues produced by the technology system; and

(F)(i) The request for proposal may provide that the agency and the vendor may negotiate an amount or baseline upon which the increase in taxes or fees is measured.

(ii) Any contract other than a fixed fee contract shall include a factor in the baseline calculation to account for an increase in taxes or fees due solely to economic factors and not to the use of the technology.

(3) The agency procurement official or procurement agent and the vendor shall negotiate the contract, with the oversight of the department to assist in negotiating an advantageous contract.



(4)(A) The agency director shall submit the proposed contract and a request for new appropriation to the Governor or his or her designee.

(B) The accompanying information will include the methodology used to calculate the baseline amount proposed by the agency and other justifications and information that detail the program and the expected benefits of the agreement.

(C) The Governor or his or her designee shall study the request and determine whether the appropriation requested and the terms of the proposed contract are in strict compliance with this subchapter.

(D)(i) The Governor may approve or modify the request for new appropriation and the proposed contract.

(ii) Any modification of the proposed contract shall be submitted to the vendor for approval.

(5)(A) Upon approval of the shared benefit agreement and new appropriation request, the Governor shall seek the advice and recommendation of the Legislative Council.

(B) Upon review of the Legislative Council, the Governor shall forward a copy of his or her approvals to the agency director and the Chief Fiscal Officer of the State.

(d) After receipt of the Governor's approvals, the Chief Fiscal Officer of the State shall direct the Auditor of State and the Treasurer of State to establish upon their books of record the necessary appropriation accounts in accordance with the provisions as set out in this section from the shared benefit holding appropriation.

(e) The requesting agency may utilize these appropriations to implement the approved contract.

(f) Nothing in this section shall prohibit an agency that enters into a contract according to this section from acquiring any goods or services through appropriations for any function or program of that agency not specifically included in any contract entered into according to this section.

(g) The Secretary of the Department of Transformation and Shared Services may promulgate such rules, procedures, and guidelines as he or she may deem necessary and proper in order to carry out the provisions of this section.

**History.** Acts 2003, No. 1095, § 1; deleted "regulations" following "rules" in 2007, No. 751, § 9; 2019, No. 315, § 1799. (g).

**Amendments.** The 2019 amendment

## SUBCHAPTER 12 — GUARANTEED ENERGY COST SAVINGS ACT

### SECTION.

19-11-1202. Definitions.

19-11-1206. Guaranteed energy cost savings contract requirements.

### SECTION.

19-11-1207. Administration of subchapter — Fees.

**Effective Dates.** Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and

classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

### 19-11-1202. Definitions.

As used in this subchapter:

(1)(A) "Energy cost savings measure" means:

(i) A new facility that is designed to reduce the consumption of energy or natural resources or operating costs as a result of changes that:

(a) Do not degrade the level of service or working conditions;

(b) Are measurable and verifiable under the International Performance Measurement and Verification Protocol, as adopted by the Arkansas Pollution Control and Ecology Commission, in the rules required under § 19-11-1207; and

(c) Are measured and verified by an audit performed by a qualified provider; or

(ii) An existing facility alteration that is designed to reduce the consumption of energy or natural resources or operating costs as a result of changes that conform with subdivisions (1)(A)(i)(a) and (b) of this section.

(B) "Energy cost savings measure" includes:

(i) Insulation and reduced air infiltration of the building structure, including walls, ceilings, and roofs or systems within the building;

(ii) Storm windows or doors, caulking or weather-stripping, multi-glazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

(iii) Automated or computerized energy control systems, including computer software and technical data licenses;

(iv) Heating, ventilating, or air conditioning system modifications or replacements;

(v) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;

(vi) Indoor air quality improvements;



- (vii) Energy recovery systems;
- (viii) Electric system improvements;
- (ix) Life safety measures that provide long-term, operating-cost reductions;
- (x) Building operation programs that reduce operating costs;
- (xi) Other energy-conservation-related improvements or equipment, including improvements or equipment related to renewable energy;
- (xii) Water and other natural resources conservation; or
- (xiii) An alteration or measure identified through a comprehensive audit or assessment of new or existing facilities;

(2) "Equipment warranty period" means the time following the execution of a guaranteed energy cost savings contract in which a material defect in an installed energy conservation measure is required to be replaced or corrected by the manufacturer or an energy service company;

(3)(A) "Guaranteed energy cost savings contract" means a contract for the implementation of one (1) or more energy cost savings measures and services provided by a qualified provider in which the energy and cost savings achieved by the installed energy project cover all project costs, including financing, over a specified contract term.

(B) "Guaranteed energy cost savings contract" does not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which public water supply system officials do not have sanitary control to be returned to the potable water supply;

(4) "Operational cost savings" means expenses eliminated and future replacement expenditures avoided as a result of new equipment installed or services performed;

(5) "Public notice" means the same as "public notice" is defined in § 19-11-203;

(6) "Qualified provider" means a person or business, including all subcontractors and employees of that person or business and third-party financing companies, that:

(A) Is properly licensed in the State of Arkansas;

(B) Has been reviewed and certified by the office as a qualified provider under this subchapter;

(C) Is experienced in the design, implementation, measurement, verification, and installation of energy cost savings measures;

(D) Has at least five (5) years of experience in the analysis, design, implementation, installation, measurement, and verification of energy efficiency and facility improvements;

(E) Has the ability to arrange or provide the necessary financing to support a guaranteed energy cost savings contract; and

(F) Has the ability to perform under a contract that requires the person or business to guarantee the work performed by one (1) or more subcontractors;

(7) "State agency" means the same as "state agency" is defined in § 19-11-203; and

(8) "Useful life" means the rated service life of an individual energy conservation measure as defined by the:

- (A) American Society of Heating, Refrigerating and Air-Conditioning Engineers;
- (B) Illuminating Engineering Society; or
- (C) Solar Energy Industries Association.

**History.** Acts 2005, No. 1761, § 1; 2013, No. 554, §§ 2-4; 2017, No. 271, § 14; 2019, No. 507, § 3.

**Amendments.** The 2017 amendment substituted "Arkansas Pollution Control

and Ecology Commission" for "Arkansas Energy Office" in (1)(A)(i)(b).

The 2019 amendment added the definitions for "Equipment warranty period" and "Useful life".

### **19-11-1206. Guaranteed energy cost savings contract requirements.**

(a) The following provisions are required in a guaranteed energy cost savings contract:

(1) A statement that the state agency shall maintain and operate the energy cost savings measures as defined in the guaranteed energy cost savings contract; and

(2) A guarantee by the qualified provider that:

(A) The energy cost savings and operational cost savings to be realized over the term of the guaranteed energy cost savings contract meet or exceed the costs of the energy cost savings measures; and

(B) If the annual energy or operational cost savings fail to meet or exceed the annual costs of the energy cost savings measure as required by the guaranteed energy cost savings contract, the qualified provider shall reimburse the state agency for any shortfall of guaranteed energy cost savings over the term of the guaranteed energy cost savings contract.

(b)(1) If a guaranteed energy cost savings contract includes energy cost savings measures that possess either an active equipment warranty period or a combined useful life in excess of twenty (20) years, a guaranteed energy cost savings contract may be extended to the length of the:

(A) Equipment warranty period; or

(B) Weighted useful life of the relevant energy cost savings measures.

(2) A guaranteed energy cost savings contract shall not exceed twenty (20) years without approval of the Arkansas Energy Office of the Division of Environmental Quality.

(c) Before entering into a guaranteed energy cost savings contract, the state agency shall require the qualified provider to file with the state agency a payment and performance bond or similar assurance as provided under § 19-11-235.

**History.** Acts 2005, No. 1761, § 1; 2013, No. 554, § 6; 2019, No. 507, § 4.

**Amendments.** The 2019 amendment rewrote (b).



### 19-11-1207. Administration of subchapter — Fees.

(a) The Arkansas Energy Office of the Division of Environmental Quality shall administer this subchapter.

(b) The Arkansas Pollution Control and Ecology Commission may promulgate rules for the administration of this subchapter to include without limitation the following:

(1) Standards for measuring and verifying the performance of energy cost savings measures;

(2) A standard contract form for use by a state agency in entering into a guaranteed energy cost savings contract;

(3) The adoption of the International Performance Measurement and Verification Protocol as it existed on a specific date; and

(4) To establish and collect a reasonable fee to cover the costs of administering this subchapter.

**History.** Acts 2013, No. 554, § 7; 2017, No. 271, § 15; 2019, No. 315, § 1800; 2019, No. 910, § 3208.

**Amendments.** The 2017 amendment rewrote the section.

The 2019 amendment by No. 315 substituted “rules” for “regulations” in the introductory language of (b).

The 2019 amendment by No. 910 substituted “Division of Environmental Quality” for “Arkansas Department of Environmental Quality” in (a).

## SUBCHAPTER 14 — CONSTRUCTION MANAGER-GENERAL CONTRACTOR METHOD OF PROCUREMENT PILOT PROGRAM

### SECTION.

19-11-1401. Title.

19-11-1402. Legislative findings.

19-11-1403. Definitions.

19-11-1404. Construction Manager-General Contractor Method of Procurement Pilot Program — Creation.

### SECTION.

19-11-1405. Project selection.

19-11-1406. Request for proposals.

19-11-1407. Construction manager-general contractor selection.

19-11-1408. Rules.

### 19-11-1401. Title.

This subchapter shall be known and may be cited as the “Construction Manager-General Contractor Method of Procurement Pilot Program”.

**History.** Acts 2017, No. 809, § 1.

### 19-11-1402. Legislative findings.

The General Assembly finds that:

(1) An efficient transportation system is critical for Arkansas’s economy and the quality of life of the state’s residents;

(2) Transportation projects are costly and the revenues currently available for highways and local roads are inadequate to preserve and

maintain existing infrastructure and to provide funds for highway improvements;

(3) The State Highway Commission has developed an alternative, cost-effective, procurement procedure for transportation projects performed by the commission and the Arkansas Department of Transportation;

(4) A construction manager-general contractor method allows the commission to engage a construction manager:

(A) To assist during the design and development process of the transportation project, including without limitation to provide input concerning the transportation project's:

- (i) Design;
- (ii) Scheduling;
- (iii) Pricing; and
- (iv) Phasing; and

(B) Who may subsequently become the general contractor and construct the transportation project if the parties agree on a guaranteed maximum price; and

(5) The cost-effective benefits are achieved by shifting the liability and risk for cost containment and transportation project scheduling to the construction manager, which leads many states to call this method the "construction manager at-risk method".

**History.** Acts 2017, No. 809, § 1; 2019, No. 1019, § 1.

**Amendments.** The 2019 amendment substituted "has developed" for "is inter-

ested in developing" in (3); deleted former (4); and redesignated former (5) and (6) as (4) and (5).

### 19-11-1403. Definitions.

As used in this subchapter:

(1) "Authorized contingency" means a provision prepared and submitted by the construction manager-general contractor as part of the guaranteed maximum price that is designed to cover costs that may result from:

- (A) Incomplete design;
- (B) Unforeseen and unpredictable conditions; or

(C) Uncertainties within the defined transportation project scope that a prudent construction manager would not have reasonably detected or anticipated during the discharge of his or her preconstruction duties;

(2) "Construction manager-general contractor" means a business firm or a legal entity selected by the Director of State Highways and Transportation to act as a construction manager to provide preconstruction services during the design and development phase of a transportation project;

(3) "Construction manager-general contractor method" means a transportation project delivery method using a best value procurement process in which a construction manager is procured to provide preconstruction services and may subsequently construct the whole transpor-



tation project or any part of the transportation project as the general contractor if the Arkansas Department of Transportation and the construction manager-general contractor reach an agreement on a guaranteed maximum price;

(4) "Guaranteed maximum price" means:

(A) The total dollar amount agreed to by the construction manager-general contractor to complete the construction of the transportation project, including without limitation the construction manager-general contractor's:

- (i) Direct costs;
- (ii) Overhead;
- (iii) Profit; and
- (iv) Any authorized contingency; and

(B) Any dollar amount added to the total dollar amount of the transportation project submitted under subdivision (4)(A) of this section to cover additional costs arising from changes in the scope of work as the department may subsequently direct in writing;

(5) "Preconstruction services" means work, labor, or services, including services furnished in connection with the design and development of a transportation project before the construction phase, including without limitation:

- (A) Cost estimates;
- (B) Schedule analysis;
- (C) Sequencing of work;
- (D) Risk identification and mitigation;
- (E) Constructability reviews;
- (F) Evaluation of alternative construction options;
- (G) Assistance with various permits;
- (H) Coordination with public or private utility service providers;
- (I) Communication with third-party stakeholders or the public;

and

(J) Development of a guaranteed maximum price; and

(6) "Request for proposals" means a document or publication soliciting proposals for a contract for construction of a transportation project between a construction manager-general contractor and the department.

**History.** Acts 2017, No. 809, § 1.

#### **19-11-1404. Construction Manager-General Contractor Method of Procurement Pilot Program — Creation.**

(a) The State Highway Commission may develop a Construction Manager-General Contractor Method of Procurement Pilot Program to test the utilization of the construction manager-general contractor method as a cost-effective option for constructing transportation projects.

(b)(1) During the term of the program the commission may select a total of five (5) transportation projects on which to utilize the construction manager-general contractor method.

(2)(A) The sum of the construction cost estimates prepared as required under § 19-11-1407 of all five (5) construction manager-general contractor method transportation projects shall not exceed two hundred million dollars (\$200,000,000).

(B) A construction cost estimate of a construction manager-general contractor method transportation project shall not exceed one hundred million dollars (\$100,000,000).

(c) The Director of State Highways and Transportation shall send written notice identifying the transportation project and the reasons for deciding to apply the construction manager-general contractor method to that specific transportation project to:

(1) The Chair of the House Committee on Public Transportation; and

(2) The Chair of the Senate Committee on Public Transportation, Technology, and Legislative Affairs.

(d) The program established under this subchapter shall terminate no later than June 30, 2024.

**History.** Acts 2017, No. 809, § 1; 2019, No. 1019, §§ 2, 3.

**Amendments.** The 2019 amendment substituted “five (5)” for “three (3)” in (b)(1) and (b)(2)(A); deleted former

(b)(2)(B); rewrote former (b)(2)(C) as present (b)(2)(B); and, in (d), substituted “The program” for “A program” and substituted “June 30, 2024” for “June 30, 2022”.

### 19-11-1405. Project selection.

If the Arkansas Department of Transportation determines that a construction manager-general contractor method of procurement is appropriate for a transportation project, the department shall establish a procedure for awarding the contract for construction of the construction manager-general contractor method transportation project using the criteria listed in § 19-11-1406.

**History.** Acts 2017, No. 809, § 1; 2019, No. 1019, § 4.

**Amendments.** The 2019 amendment deleted former (a); deleted the (b) design-

nation; and substituted “If the Arkansas Department of Transportation determines” for “If the department determines”.

### 19-11-1406. Request for proposals.

(a) A request for proposals under this subchapter shall include without limitation the following:

(1) The minimum qualifications of the construction manager-general contractor;

(2) The procedures for submitting a proposal to the Arkansas Department of Transportation, the criteria for the evaluation of and selection of a construction manager-general contractor to perform preconstruction services, and the relative weight assigned for each criteria as indicated in a technical scoring matrix;



(3) The form of the contract to be awarded for preconstruction services;

(4) A listing of the types and scope of the preconstruction services that will be required;

(5) The scope of the intended contract;

(6) The budget limits for the transportation project and the preconstruction services;

(7) The method of payment and structure of fees for the preconstruction services;

(8) A requirement that the construction manager-general contractor submit relevant information regarding any licenses, registration, or credentials that may be required to construct the transportation project;

(9) A requirement that the construction manager-general contractor provide evidence that establishes that the construction manager-general contractor is capable of obtaining the required bonding and insurance;

(10) A requirement that the construction manager-general contractor submit information concerning the debarment or default from a federal, state, or local government transportation project within the past five (5) years;

(11) A requirement that the construction manager-general contractor provide information concerning the bankruptcy or receivership of any of its members, including information concerning any work completed by a surety;

(12) A requirement that the construction manager-general contractor provide evidence of competency, capability, and capacity to complete a transportation project of similar size, scope, or complexity; and

(13) A prohibition that excludes a person or firm that has received compensation for assisting the department in preparing the request for proposals from submitting a proposal in response to the request for proposals or participating as a construction manager-general contractor team member.

(b) A request for proposals under this subchapter shall not:

(1) Require that the construction manager-general contractor have prior experience with any particular transportation project procurement method as a condition for submitting a proposal; and

(2) Give any preference for any particular contract delivery method in the scoring of a proposal.

(c) The department shall:

(1) Send a written notice of award to the best-evaluated construction manager-general contractor; or

(2) Send to all the construction manager-general contractors that submitted a proposal a written notice that all proposals have been rejected.

**19-11-1407. Construction manager-general contractor selection.**

(a) The Arkansas Department of Transportation shall:

(1) Prepare contract plans, specifications, special provisions, and other requirements composing the contract for construction of a transportation project elected for procurement using the construction manager-general contract method authorized by this subchapter;

(2) Prepare a detailed construction cost estimate to evaluate the appropriate price for the construction of the transportation project;

(3) If requested by the Director of State Highways and Transportation, have an independent third-party cost estimator prepare a detailed construction cost estimate to confirm the appropriate price for the construction of the transportation project;

(4) Include in the contract created by subdivision (a)(1) of this section a requirement that the construction manager-general contractor perform at least thirty percent (30%) of the total cost for construction, not including the preconstruction work performed by the construction manager-general contractor; and

(5)(A) Keep the construction cost estimates prepared under subdivisions (a)(2) and (3) of this section confidential and not subject to public disclosure until after the contract has been awarded.

(B) Construction cost estimates prepared under subdivisions (a)(2) and (3) of this section are confidential and exempt from public disclosure under the Freedom of Information Act of 1967, § 25-19-101 et seq., but only until after the contract has been awarded.

(b) A construction manager-general contractor shall submit to the department a guaranteed maximum price for the construction of the transportation project using the contract plans, specifications, special provisions, and other requirements prepared by the department as required by subdivision (a)(1) of this section.

(c) The department may award the contract to a construction manager-general contractor if the guaranteed maximum price does not exceed the cost estimate provided by the department or independent third party by more than ten percent (10%).

(d) If the director rejects the proposed guaranteed maximum price, the department may:

(1) Work with the construction manager-general contractor to find a guaranteed maximum price that is acceptable to both parties; or

(2) Request that the construction manager-general contractor provide additional preconstruction services and submit a new guaranteed maximum price as directed by this section.

(e) If the department does not award the contract to a construction manager-general contractor, the department may proceed with the transportation project using a procurement process authorized by law.



**19-11-1408. Rules.**

The State Highway Commission and the Arkansas Department of Transportation may promulgate rules to implement and administer this subchapter.

**History.** Acts 2017, No. 809, § 1.

**CHAPTER 12****TOBACCO SETTLEMENT PROCEEDS ACT****SUBCHAPTER.****1. TOBACCO SETTLEMENT PROCEEDS ACT.**

**A.C.R.C. Notes.** Acts 2018, No. 157, § 6, provided: "POSITIONS.

"(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"(d) Whenever applicable the information contained in (a) and (b) of this section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

"The provisions of this section shall be in effect only from July 1, 2018 through June 30, 2019."

Acts 2018, No. 171, § 5, provided: "POSITIONS.

"(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

"(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

"The provisions of this section shall be in effect only from July 1, 2018 through June 30, 2019."

Acts 2018, No. 175, § 6, provided: "POSITIONS.

"(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

"(b) State funds will not be used to replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

"(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2018 through June 30, 2019.”

Acts 2018, No. 191, § 9, provided: “POSITIONS.

“(a) Nothing in this act shall be construed as a commitment of the State of Arkansas or any of its agencies or institutions to continue funding any position paid from the proceeds of the Tobacco Settlement in the event that Tobacco Settlement funds are not sufficient to finance the position.

“(b) State funds will not be used to

replace Tobacco Settlement funds when such funds expire, unless appropriated by the General Assembly and authorized by the Governor.

“(c) A disclosure of the language contained in (a) and (b) of this Section shall be made available to all new hire and current positions paid from the proceeds of the Tobacco Settlement by the Tobacco Settlement Commission.

“(d) Whenever applicable the information contained in (a) and (b) of this Section shall be included in the employee handbook and/or Professional Services Contract paid from the proceeds of the Tobacco Settlement.

“The provisions of this section shall be in effect only from July 1, 2018 through June 30, 2019.”

## SUBCHAPTER 1 — TOBACCO SETTLEMENT PROCEEDS ACT

### SECTION.

19-12-107. Creation and administration of Arkansas Healthy Century Trust Fund.

19-12-113. Establishment and administration of prevention and cessation programs.

19-12-115. Establishment and administration of the Arkansas Biosciences Institute.

### SECTION.

19-12-116. Establishment and administration of Medicaid Expansion Program.

19-12-117. Establishment of the Arkansas Tobacco Settlement Commission.

**Effective Dates.** Acts 2017, No. 50, § 2: Jan. 26, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that thousands of citizens of Arkansas are on a waiting list to receive home and community-based services that they need to maintain quality of life; that the present Alternative Community Services Waiver Program, also known as the ‘Developmental Disabilities Waiver’, does not have the capacity to provide assistance to these individuals; and that this act is immediately necessary to ensure the health and safety of the individuals with intellectual and developmental disabilities in the State of Arkansas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.”

Acts 2017 (1st Ex. Sess.), No. 7, § 5: May 4, 2017. Emergency clause provided: “It is found and determined by the General Assembly of the State of Arkansas that the State of Arkansas does not have a dedicated source of budget reserves; that providing funding for the Long Term Reserve Fund could improve the credit rating of the State of Arkansas and increase the fiscal strength and stability of the state; and that this act is immediately necessary because the transfer of the balance of the Arkansas Healthy Century Trust Fund to other state purposes would improve the state’s credit rating and save



the state a significant amount of money that could then be used for other important state purposes. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state

entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncoded sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019."

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### **19-12-107. Creation and administration of Arkansas Healthy Century Trust Fund.**

(a) There is hereby created and established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State, a trust fund, to be created as a public trust for the benefit of the State of Arkansas, to be known as the "Arkansas Healthy Century Trust Fund", which Trust Fund shall be administered by the State Board of Finance. Such fund shall be restricted in its use and is to be used solely as provided in this chapter.

(b) The Arkansas Healthy Century Trust Fund shall be a perpetual trust, the beneficiary of which shall be the State of Arkansas and the programs of the State of Arkansas enumerated in this section. The State Board of Finance, as it may from time to time be comprised, is hereby appointed as trustee of the Arkansas Healthy Century Trust Fund. Such trust shall be revocable, and subject to amendment.

(c) The Arkansas Healthy Century Trust Fund shall be administered in accordance with the provisions of this section, which shall, for all purposes, be deemed to be the governing document of the public trust.

(d) The Arkansas Healthy Century Trust Fund shall be funded in an initial principal amount of one hundred million dollars (\$100,000,000) as provided in § 19-12-104. All earnings on investments of amounts in the Arkansas Healthy Century Trust Fund, to the extent not used for the purposes enumerated in subsection (e) of this section, shall be redeposited into the Arkansas Healthy Century Trust Fund, it being the intent of this chapter that the Arkansas Healthy Century Trust Fund shall grow in principal amount until needed for programs and purposes to benefit the State of Arkansas.

(e) The Arkansas Healthy Century Trust Fund shall be held in trust and used for the following purposes, and no other purposes:

(1) investment earnings on the Arkansas Healthy Century Trust Fund may be used for:

(A) the payment of expenses related to the responsibilities of the State Board of Finance as set forth in § 19-12-103; and

(B) such programs, and other projects related to healthcare services, health education, and health-related research as shall, from time to time, be designated in legislation adopted by the General Assembly;

(2) the principal amounts in the Arkansas Healthy Century Trust Fund may be used for such programs, and other projects related to healthcare services, health education, and health-related research as shall, from time to time, be designated in legislation adopted by the General Assembly, it being the intent of this chapter that the principal amount of the Arkansas Healthy Century Trust Fund should not be appropriated without amendment of this public trust; and

(3) notwithstanding subdivisions (e)(1) and (2) of this section, investment earnings and principal amounts from the Arkansas Healthy Century Trust Fund may be transferred as designated in legislation adopted by the General Assembly.

(f) It is intended that the beneficiaries of the Arkansas Healthy Century Trust Fund be the State of Arkansas and its programs, and other projects related to healthcare services, health education, and health-related research, as such are now in existence or as such may be created in the future.

(g) The State Board of Finance, as trustee of the Arkansas Healthy Century Trust Fund, is authorized to invest all amounts held in the Arkansas Healthy Century Trust Fund in investments pursuant to and in compliance with § 19-12-103(c).

**History.** Init. Meas. 2000, No. 1, § 7; Acts 2017 (1st Ex. Sess.), No. 7, § 3.

**A.C.R.C. Notes.** Acts 2017 (1st Ex. Sess.), No. 7, § 1, provided: "Legislative findings. The General Assembly finds that:

"(1) The level of state financial reserves affects the state's credit rating, as a higher level of reserves will result in a better credit rating;

"(2) Arkansas scores low on financial reserves analyses, with the lack of adequate reserves negatively affecting the state's credit rating;

"(3) S&P Global Ratings gives the highest possible score, consistent with a AAA-rating, for states in which '[t]here is a formal budget-based reserve relative to revenue or spending that is above 8%';

"(4) S&P affirmed its 'AA' long-term rating to Arkansas's series 2016 taxable refunding higher education general obligation bonds and noted, 'The state lacks a

formal reserve and liquidity policy . . .' but also noted that the State of Arkansas has formed a funding strategy for the state's Long Term Reserve Fund;

"(5) A funded reserve fund and a higher credit rating will save the state money;

"(6) Arkansas currently has approximately one billion five hundred million dollars (\$1,500,000,000) in outstanding general obligation debt;

"(7) An improvement in the state's credit rating from AA to AAA would allow the state to borrow money at twelve (12) to fifteen (15) basis points below the current AA-rate, potentially saving the state one million eight hundred thousand dollars (\$1,800,000) per year in interest costs; and

"(8) In addition to financial benefits from a higher credit rating, there are numerous qualitative benefits, including the increased appeal of a higher credit rating to potential new industries, which



will assist the state in pursuing the important goal of recruiting industry to our state.”

Acts 2017 (1st Ex. Sess.), No. 7, § 4, provided: “Transfer from the Arkansas Healthy Century Trust Fund. Immediately upon the effective date of this act [May 4, 2017], or as soon as is practicable after the effective date of this act, the Chief Fiscal Officer of the State shall

transfer on his or her books and the books of the Treasurer of State and the Auditor of State the balance of the Arkansas Healthy Century Trust Fund to the Long Term Reserve Fund.”

**Amendments.** The 2017 (1st Ex. Sess.) amendment, in (e)(2), deleted “only” preceding “be used” and inserted the second occurrence of “Arkansas Healthy Century”; and added (e)(3).

### **19-12-113. Establishment and administration of prevention and cessation programs.**

(a) It is the intent of this chapter that the Department of Health should establish the Tobacco Prevention and Cessation Program described in this section, and to administer such programs in accordance with law. The program described in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance based measures for accountability which will measure specific health related results.

(b) The Department of Health shall be responsible for developing, integrating, and monitoring tobacco prevention and cessation programs funded under this chapter and shall provide administrative oversight and management, including, but not limited to implementing performance based measures. The Department of Health shall have authority to award grants and allocate money appropriated to implement the tobacco prevention and cessation program mandated under this chapter. The Department of Health may contract with those entities necessary to fully implement the tobacco prevention and cessation initiatives mandated under this chapter. Within thirty (30) days of receipt of moneys into the Prevention and Cessation Program Account, fifteen percent (15%) of those moneys shall be deposited into a special account within the prevention and cessation account at the Department of Health to be expended for tobacco prevention and cessation in minority communities as directed by the Secretary of the Department of Health in consultation with the Chancellor of the University of Arkansas at Pine Bluff, the President of the Arkansas Medical, Dental, and Pharmaceutical Association, Inc., and the League of United Latin American Citizens.

(c) The Tobacco Prevention and Cessation Program shall be comprised of components approved by the State Board of Health. The program components selected by the board shall include:

- (1) community prevention programs that reduce youth tobacco use;
- (2) local school programs for education and prevention in grades kindergarten through twelve (K-12) that should include school nurses, where appropriate;
- (3) enforcement of youth tobacco control laws;

(4) state-wide programs with youth involvement to increase local coalition activities;

(5) tobacco cessation programs;

(6) tobacco-related disease prevention programs;

(7) a comprehensive public awareness and health promotion campaign;

(8) grants and contracts funded pursuant to this chapter for monitoring and evaluation, as well as data gathering; and

(9) other programs as deemed necessary by the board.

(d) There is hereby created an Advisory Committee to the State Board of Health, to be known as the "Tobacco Prevention and Cessation Advisory Committee". It shall be the duty and responsibility of the Committee to advise and assist the board in carrying out the provisions of this chapter. The Advisory Committee's authority shall be limited to an advisory function to the board. The Advisory Committee may, in consultation with the Department of Health, make recommendations to the board on the strategic plans for the prevention, cessation, and awareness elements of the comprehensive Tobacco Prevention and Cessation Program. The Advisory Committee may also make recommendations to the board on the strategic vision and guiding principles of the Tobacco Prevention and Cessation Program.

(e) The Advisory Committee shall be governed as follows:

(1) The Advisory Committee shall consist of eighteen (18) members; one (1) member to be appointed by the President Pro Tempore of the Senate, one (1) member to be appointed by the Speaker of the House of Representatives, and sixteen (16) members to be appointed by the Governor subject to confirmation by the Senate. The Governor shall consult each of the following designated groups before making an appointment, and shall consist of the following: one (1) member appointed to represent the Arkansas Medical Society, Inc.; one (1) member shall represent the Arkansas Hospital Association, Inc.; one (1) member shall represent the American Cancer Society; one (1) member shall represent the American Heart Association; one (1) member shall represent the American Lung Association; one (1) member shall represent the Coalition for a Tobacco Free Arkansas; one (1) member shall represent Arkansans for Drug Free Youth; one (1) member shall represent the Division of Elementary and Secondary Education; one (1) member shall represent the Arkansas Minority Health Commission; one (1) member shall represent the Arkansas Center for Health Improvement; one (1) member shall represent the Arkansas Association of Area Agencies on Aging; one (1) member shall represent the Arkansas Nurses Association; one (1) member shall represent the University of Arkansas Cooperative Extension Service; one (1) member shall represent the University of Arkansas at Pine Bluff; one (1) member shall represent the League of United Latin American Citizens; and one (1) member shall represent the Arkansas Medical, Dental, and Pharmaceutical Association, Inc. The Executive Committee of Arkansas Students Working Against Tobacco shall serve as youth advisors to this



Advisory Committee. All members of this committee shall be residents of the State of Arkansas.

(2) The Advisory Committee will initially have four (4) members who will serve one (1) year terms; four (4) members who will serve two (2) year terms; five (5) members who will serve three (3) year terms; and five (5) members who will serve four (4) years. Members of the Advisory Committee shall draw lots to determine the length of the initial term. Subsequently appointed members shall be appointed for four (4) year terms and no member can serve more than two (2) consecutive full four (4) year terms. The terms shall commence on October 1st of each year.

(3) Members of the Advisory Committee shall not be entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25-16-902, to be paid from funds appropriated for this program to the Department of Health.

(4) Members appointed to the Advisory Committee and the organizations they represent shall make full disclosure of the member's participation on the Committee when applying for any grant or contract funded by this chapter.

(5) All members appointed to the Advisory Committee shall make full and public disclosure of any past or present association to the tobacco industry.

(6) The Advisory Committee shall, within ninety (90) days of appointment, hold a meeting and elect from its membership a chair for a term set by the Advisory Committee. The Advisory Committee shall adopt bylaws.

(7) The Advisory Committee shall meet at least quarterly, however, special meetings may be called at any time at the pleasure of the State Board of Health or pursuant to the bylaws adopted by the Advisory Committee.

(f) The board is authorized to review the recommendations of the Advisory Committee. The board shall adopt and promulgate rules, standards and guidelines as necessary to implement the program in consultation with the Department of Health.

(g) The Department of Health in implementing this Program shall establish such performance based accountability procedures and requirements as are consistent with law.

(h) Each of the programs adopted pursuant to this chapter shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

**History.** Init. Meas. 2000, No. 1, § 13; Acts 2015, No. 1100, § 45; 2019, No. 910, §§ 4916, 4917.

**Amendments.** The 2019 amendment substituted "Secretary of the Department of Health" for "Director of the Department of Health" in (b); and, in (e)(1), substituted "Arkansas Medical Society, Inc." for "Ar-

kansas Medical Society", "Arkansas Hospital Association, Inc." for "Arkansas Hospital Association", "Division of Elementary and Secondary Education" for "Department of Education", and "Arkansas Medical, Dental, and Pharmaceutical Association, Inc." for "Arkansas Medical, Dental, and Pharmaceutical Association".

**19-12-115. Establishment and administration of the Arkansas Biosciences Institute.**

(a) It is the intent of this chapter to hereby establish the Arkansas Biosciences Institute for the educational and research purposes set forth hereinafter to encourage and foster the conduct of research through the University of Arkansas, Division of Agriculture of the University of Arkansas, the University of Arkansas for Medical Sciences, University of Arkansas at Fayetteville, Arkansas Children's Hospital and Arkansas State University. The Arkansas Biosciences Institute is part of a broad program to address health issues with specific emphasis on smoking and the use of tobacco products. The Arkansas Biosciences Institute is intended to develop more fully the interdisciplinary opportunities for research primarily in the areas set forth hereinafter.

(b) Purposes. The Arkansas Biosciences Institute is established for the following purposes:

- (1) to conduct agricultural research with medical implications;
- (2) to conduct bioengineering research focused on the expansion of genetic knowledge and new potential applications in the agricultural-medical fields;
- (3) to conduct tobacco-related research that focuses on the identification and applications of behavioral, diagnostic and therapeutic research addressing the high level of tobacco-related illnesses in the State of Arkansas;
- (4) to conduct nutritional and other research focusing on prevention or treatment of cancer, congenital or hereditary conditions or other related conditions; and
- (5) to conduct other research identified by the primary educational and research institutions involved in the Arkansas Biosciences Institute or as otherwise identified by the Arkansas Biosciences Institute Board of the Arkansas Biosciences Institute and which is reasonably related, or complementary to, research identified in subdivisions (b)(1)-(4) of this section.

(c)(1) Arkansas Biosciences Institute Board. There is hereby established the Arkansas Biosciences Institute Board which shall consist of the following: the President of the University of Arkansas; the President of Arkansas State University; the Chancellor of the University of Arkansas for Medical Sciences; the Chancellor of the University of Arkansas at Fayetteville; the Vice President for Agriculture of the University of Arkansas; the Director of the Arkansas Economic Development Commission; the Director of the National Center for Toxicological Research; the President of Arkansas Children's Hospital; and two (2) individuals possessing recognized scientific, academic or business qualifications appointed by the Governor. The two (2) members of the Arkansas Biosciences Institute Board who are appointed by the Governor will serve four-year terms and are limited to serving two (2) consecutive four-year terms. The terms shall commence on October 1 of



each year. These members appointed by the Governor are not entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25-16-902, to be paid from funds appropriated for this program. The Arkansas Biosciences Institute Board shall establish and appoint the members of an Industry Advisory Committee and a Science Advisory Committee composed of knowledgeable persons in the fields of industry and science. These Committees shall serve as resources for the Arkansas Biosciences Institute Board in their respective areas and will provide an avenue of communication to the Arkansas Biosciences Institute Board on areas of potential research.

(2) The Arkansas Biosciences Institute Board shall establish rules for governance for Board affairs and shall:

(A) provide overall coordination of the program;

(B) develop procedures for recruitment and supervision of member institution research review panels, the membership of which shall vary depending on the subject matter of proposals and review requirements, and may, in order to avoid conflicts of interest and to ensure access to qualified reviews, recommend reviewers not only from Arkansas but also from outside the state;

(C) provide for systematic dissemination of research results to the public and the healthcare community, including work to produce public service advertising on screening and research results, and provide for mechanisms to disseminate the most current research findings in the areas of cause and prevention, cure diagnosis and treatment of tobacco related illnesses, in order that these findings may be applied to the planning, implementation and evaluation of any other research programs of this state;

(D) develop policies and procedures to facilitate the translation of research results into commercial, alternate technological, and other applications wherever appropriate and consistent with state and federal law; and

(E) transmit on or before the end of each calendar year on an annual basis, a report to the General Assembly and the Governor on grants made, grants in progress, program accomplishments, and future program directions. Each report shall include, but not be limited to, all of the following information:

(i) the number and dollar amounts of internal and external research grants, including the amount allocated to negotiated indirect costs;

(ii) the subject of research grants;

(iii) the relationship between federal and state funding for research;

(iv) the relationship between each project and the overall strategy of the research program;

(v) a summary of research findings, including discussion of promising new areas; and

(vi) the corporations, institutions, and campuses receiving grant awards.

(d) Director. The director of the Arkansas Biosciences Institute shall be appointed by the President of the University of Arkansas, in consultation with the President of Arkansas State University, and the President of Arkansas Children's Hospital, and based upon the advice and recommendation of the Arkansas Biosciences Institute Board. The Director shall be an employee of the University of Arkansas and shall serve at the pleasure of the President of the University of Arkansas. The Director shall be responsible for recommending policies and procedures to the Arkansas Biosciences Institute Board for its internal operation and shall establish and ensure methods of communication among the units and divisions of the University of Arkansas, Arkansas Children's Hospital and Arkansas State University and their faculty and employees engaged in research under the auspices of the Arkansas Biosciences Institute. The Director shall undertake such administrative duties as may be necessary to facilitate conduct of research under the auspices of the Arkansas Biosciences Institute. The Director shall perform such other duties as are established by the President of the University of Arkansas in consultation with the President of Arkansas State University, the President of Arkansas Children's Hospital and with the input of the Arkansas Biosciences Institute Board.

(e) Conduct of Research. Research performed under the auspices of the Arkansas Biosciences Institute shall be conducted in accordance with the policies of the University of Arkansas, Arkansas Children's Hospital, and Arkansas State University, as applicable. The Arkansas Biosciences Institute Board and the Director shall facilitate the establishment of centers to focus on research in agri-medicine, environmental biotechnology, medical genetics, bio-engineering and industry development. Such centers shall be established in accordance with procedures adopted by the Arkansas Biosciences Institute Board, and shall provide for interdisciplinary collaborative efforts with a specific research and educational objectives.

(f) In determining research projects and areas to be supported from such appropriated funds, each of the respective institutions shall assure that adequate opportunities are given to faculty and other researchers to submit proposals for projects to be supported in whole or in part from such funds. At least annually the Arkansas Biosciences Institute Board shall review research being conducted under the auspices of the Arkansas Biosciences Institute and may make recommendations to the President of the University of Arkansas and the President of Arkansas State University and President of Arkansas Children's Hospital of ways in which such research funds may be more efficiently employed or of collaborative efforts which would maximize the utilization of available funds.

(g) The programs described in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance based measures for accountability which will measure specific health related results.



(h) Each of the programs adopted pursuant to this Section shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

**History.** Init. Meas. 2000, No. 1, § 15; Acts 2015 (1st Ex. Sess.), No. 7, § 112; 2015 (1st Ex. Sess.), No. 8, § 112; 2019, No. 910, § 498. substituted "Director of the Arkansas Economic Development Commission" for "Executive Director of the Arkansas Economic Development Commission" in (c)(1).

**Amendments.** The 2019 amendment

### **19-12-116. Establishment and administration of Medicaid Expansion Program.**

(a) It is the intent of this chapter that the Department of Human Services should establish the Medicaid Expansion Program described in this section, and to administer such program in accordance with law.

(b)(1) The Medicaid Expansion Program shall be a separate and distinct component of the Arkansas Medicaid Program currently administered by the Department of Human Services and shall be established as follows:

(A) expanding Medicaid coverage and benefits to pregnant women;

(B) expanding inpatient and outpatient hospital reimbursements and benefits to adults aged nineteen (19) to sixty-four (64);

(C) expanding non-institutional coverage and benefits to adults aged sixty-five (65) and over; and

(D) expanding medical assistance, home and community-based services, and employment supports for:

(i) Adults with intellectual and developmental disabilities who qualify for services; and

(ii) Children with intellectual and developmental disabilities who qualify for services.

(2) All such expenditures shall be made in conformity with the Arkansas Medicaid Program as amended and approved by the Centers for Medicare and Medicaid Services.

(c) The programs defined in this section shall be administered pursuant to a strategic plan encompassing the elements of a mission statement, defined program(s), and program goals with measurable objectives and strategies to be implemented over a specific timeframe. Evaluation of each program shall include performance-based measures for accountability which will measure specific health related results.

(d) Each of the programs adopted pursuant to this section shall be subject to the monitoring and evaluation procedures described in § 19-12-118.

**History.** Init. Meas. 2000, No. 1, § 16; Acts 2017, No. 50, § 1. (b)(1)-(4) as (b)(1)(A)-(D); substituted "Arkansas Medicaid Program" for "state Medicaid program" in (b)(1) and (2); rewrote

**Amendments.** The 2017 amendment redesignated (b) as (b)(1) and (2) and former (b)(1)(D); and made stylistic changes.

**19-12-117. Establishment of the Arkansas Tobacco Settlement Commission.**

(a) There is hereby created and recognized the Arkansas Tobacco Settlement Commission, which shall be composed of the following:

(1) The Director of the Arkansas Economic Development Commission or his or her designee;

(2) The Commissioner of Elementary and Secondary Education or his or her designee;

(3) The Director of the Division of Higher Education or his or her designee;

(4) The Secretary of the Department of Human Services or his or her designee;

(5) The Secretary of the Department of Health or his or her designee;

(6) A healthcare professional to be selected by the President Pro Tempore of the Senate;

(7) A healthcare professional to be selected by the Speaker of the House of Representatives;

(8) A citizen selected by the Governor; and

(9) A citizen selected by the Attorney General.

(b)(1) The four (4) members of the commission who are not on the commission by virtue of being a director of an agency, will serve four-year terms. The terms shall commence on October 1 of each year. Commission members are limited to serving two (2) consecutive four-year terms.

(2) Members of the commission shall not be entitled to compensation for their services, but may receive expense reimbursement in accordance with § 25-16-902, to be paid from funds appropriated for this program.

(c) Members appointed to the commission and the organizations they represent shall make full disclosure of the members' participation on the commission when applying for any grant or contract funded by this chapter.

(d) All members appointed to the commission shall make full and public disclosure of any past or present association to the tobacco industry.

(e) The commission shall, within ninety (90) days of appointment, hold a meeting and elect from its membership a chair for a term set by the commission. The commission is authorized to adopt bylaws.

(f) The commission shall meet at least quarterly. However, special meetings of the commission may be called at any time at the pleasure of the chair or pursuant to the bylaws of the commission.

(g) The commission is authorized to hire an independent third party with appropriate experience in health, preventive resources, health statistics, and evaluation expertise to perform monitoring and evaluation of program expenditures made from the program accounts pursuant to this chapter. Such monitoring and evaluation shall be performed in accordance with § 19-12-118, and the third party retained to perform



such services shall prepare a biennial report to be delivered to the General Assembly and the Secretary of the Department of Health by each August 1 preceding a general session of the General Assembly. The report shall be accompanied by a recommendation from the commission as to the continued funding for each program.

(h) The costs and expenses of the monitoring and evaluation program, as administered by the Department of Health, as well as the salaries, costs, and expenses of staff shall be paid from the Arkansas Tobacco Settlement Commission Fund established pursuant to § 19-12-108.

(i) If the deposits into the Arkansas Tobacco Settlement Commission Fund exceed the amount necessary to pay the costs and expenses described in subsection (h) of this section, then the commission is authorized to make grants as follows:

(1) Those organizations eligible to receive grants are nonprofit and community-based;

(2) Grant criteria shall be established based upon the following principles:

(A) All funds should be used to improve and optimize the health of Arkansans;

(B) Funds should be spent on long-term projects that improve the health of Arkansans;

(C) Future tobacco-related illness and healthcare costs in Arkansas should be minimized through this opportunity; and

(D) Funds should be invested in solutions that work effectively and efficiently in Arkansas; and

(3) Grant awards shall be restricted in amounts up to fifty-thousand dollars (\$50,000) per year for each eligible organization.

**History.** Init. Meas. 2000, No. 1, § 17; Acts 2015 (1st Ex. Sess.), No. 7, § 113; 2015 (1st Ex. Sess.), No. 8, § 113; 2019, No. 910, § 4918.

**Amendments.** The 2019 amendment deleted "Executive" preceding "Director" in (a)(1); substituted "Commissioner of Elementary and Secondary Education" for "Director of the Department of Education" in (a)(2); substituted "Division of Higher Education" for "Department of Higher Educa-

tion" in (a)(3); substituted "Secretary of the Department of Human Services" for "Director of the Department of Human Services" in (a)(4); substituted "Secretary of the Department of Health" for "Director of the Department of Health" in (a)(5); substituted "Secretary of the Department of Health" for "Governor" in the second sentence of (g); in (h), deleted the former first sentence and inserted "as administered by the Department of Health"; and made stylistic changes.

























































































